

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

\* \* \*

PATRICIA MARTIN, INDIVIDUALLY  
AND AS ADMINISTRATRIX OF THE  
ESTATE OF DONTAE MARTIN, SR.,  
Plaintiff,

vs.

CASE NO. 3:17-cv-160

JOSHUA HAAS, et al.,  
Defendants.

\* \* \*

Deposition of JOSHUA HAAS, Defendant  
herein, called by the Plaintiff for  
cross-examination pursuant to the Rules of Civil  
Procedure, taken before me, Kathy S. Wysong, a  
Notary Public in and for the State of Ohio, at the  
Montgomery County Prosecutor's Office, 301 West  
Third Street, Dayton, Ohio, on Wednesday,  
November 21, 2018, at 10:44 a.m.

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1	EXAMINATION CONDUCTED	2
2	BY MS. BRANCH:.....	6
3		
4	EXHIBITS MARKED	
5	(Thereupon, Plaintiff's Exhibit 20,	
6	one colored photograph, was	
7	previously marked for purposes of	
8	identification.).....	33
9	(Thereupon, Plaintiff's Exhibit 57,	
10	three colored photographs, was	
11	marked for purposes of	
12	identification.).....	34
13	(Thereupon, Plaintiff's Exhibit 58,	
14	Deputy Joshua Haas' statement, was	
15	marked for purposes of	
16	identification.).....	45
17	(Thereupon, Plaintiff's Exhibit 14,	
18	two colored photographs, was	
19	previously marked for purposes of	
20	identification.).....	82
21	(Thereupon, Plaintiff's Exhibit 1,	
22	incident history detail dispatch	
23	log, was previously marked for	
24	purposes of identification.).....	84
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1 (Thereupon, Plaintiff's Exhibit 59,  
2 one colored photograph, was marked  
3 for purposes of identification.)..... 104  
4 (Thereupon, Plaintiff's Exhibit 15,  
5 one colored photo, was previously  
6 marked for purposes of  
7 identification.)..... 106  
8 (Thereupon, Plaintiff's Exhibit 60,  
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12 one colored photograph, was  
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15 (Thereupon, Plaintiff's Exhibit 61,  
16 Joshua Haas' oath of office, was  
17 marked for purposes of  
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19 (Thereupon, Plaintiff's Exhibit 62,  
20 Joshua Haas' position description,  
21 was marked for purposes of  
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1 (Thereupon, Plaintiff's Exhibit 2,  
2 use of force policy, was previously  
3 marked for purposes of  
4 identification.)..... 163  
5 (Thereupon, Plaintiff's Exhibit 63,  
6 use of force report on James Wright,  
7 was marked for purposes of  
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## 1 APPEARANCES:

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1 ALSO PRESENT:

2 Drew Santana

3 \* \* \*

4 JOSHUA HAAS

5 of lawful age, Defendant herein, having been first  
6 duly cautioned and sworn, as hereinafter  
7 certified, was examined and said as follows:

8 CROSS-EXAMINATION

9 BY MS. BRANCH:

10 Q. Could you state your full name for  
11 the record?

12 A. Deputy Joshua Haas, H A A S.

13 Q. And how do you pronounce your last  
14 name?

15 A. Haas.

16 Q. Haas, not Haas?

17 A. Either way.

18 Q. Okay. Well, I've been pronouncing it  
19 wrong for a very long time so I will try to get it  
20 right.

21 A. Either way.

22 Q. All right. And I know you sat in on  
23 Officer Teague's deposition the other day.

24 A. Yes, ma'am.

25 Q. Have you ever been deposed before

1     yourself?

2             A.     Yes.

3             Q.     All right.  What type of cases were  
4     those?

5             A.     Just one other time.  It was an  
6     officer-involved shooting.

7             Q.     Do you remember who the person was  
8     that was shot?

9             A.     Tracy Davis, Sr.

10            Q.     And when was that deposition?

11            A.     The shooting was in 2007 so I'm  
12     assuming somewhere in 2007.  I don't know exactly  
13     the date.

14            Q.     Did he survive that shooting?

15            A.     Yes.

16            Q.     And what was the outcome of that  
17     case?

18            A.     He was convicted on some offenses,  
19     but I'm not sure what exactly it was a conviction  
20     on.

21            Q.     Was there a civil case brought after  
22     the criminal case?

23            A.     Yes, ma'am.

24            Q.     And do you know the outcome of the  
25     civil lawsuit?

1 A. No, I don't.

2 Q. Were you one of the officers involved  
3 in the shooting?

4 A. Yes, ma'am.

5 Q. And were you one of the officers who  
6 actually shot him?

7 A. Yes, ma'am.

8 Q. And so you know the ground rules of a  
9 deposition. I'm going to ask you questions,  
10 you're going to answer them out loud on the record  
11 for the court reporter.

12 A. Yes, ma'am.

13 Q. Sometimes I'm slow in formulating my  
14 words so just let me finish getting the question  
15 out before you start your answer --

16 A. Okay.

17 Q. -- so we don't talk on top of each  
18 other.

19 A. Okay.

20 Q. If you don't understand one of my  
21 questions for whatever reason, just let me know  
22 and I will try to rephrase it or try again.

23 A. Okay.

24 Q. Is there any reason that your memory  
25 today would be impaired or your ability to



1 concentrate would be impaired today?

2 A. No, ma'am.

3 Q. Have you been up all night working  
4 third shift?

5 A. No.

6 Q. All right. And have you -- are you  
7 on any medications today?

8 A. Yes.

9 Q. What type of medication?

10 A. High blood pressure medication.

11 Q. Okay. And do you know what -- is  
12 that the same medication you were on at the time  
13 of the shooting in July of '15?

14 A. Yes, ma'am.

15 Q. What's that medication?

16 A. Lisinopril.

17 Q. And how does that affect you?

18 A. It doesn't.

19 Q. Do you have any side effects from it?

20 A. No, ma'am.

21 Q. And how long have you been on it?

22 A. I have no idea. A while.

23 Q. More than three and a half years?

24 A. Probably, yes.

25 Q. Any other medications that you're

1 currently on?

2 A. No, not currently.

3 Q. Or that you were on at the time of  
4 the shooting of Dontae Martin?

5 A. Yes. I was on an antidepressant at  
6 that time.

7 Q. And which antidepressant?

8 A. I don't remember. I haven't taken it  
9 in two years.

10 Q. Is that something that your physician  
11 would be able to tell you or your pharmacy if you  
12 needed to find out --

13 A. Oh, I'm sure. Yes.

14 Q. -- what the medicine was?

15 A. Yes.

16 Q. And why were you on an antidepressant  
17 back in July of '15?

18 MS. DINEHART: Objection.

19 THE WITNESS: My -- I felt that I  
20 needed to be on it, as well as my doctor.

21 BY MS. BRANCH:

22 Q. Okay. And was that your family  
23 doctor or a psychiatrist who prescribed that for  
24 you?

25 A. Family doctor.

1 Q. And was there something going on at  
2 work that caused you to need to be on an  
3 antidepressant?

4 A. No, not necessarily. It was  
5 basically my life in general. I felt that I  
6 needed a little help.

7 Q. Okay. And how long were you on that?

8 A. I don't recall the exact time. Prior  
9 to the shooting and then up to two years ago --

10 Q. Okay.

11 A. -- but I don't know the exact time.

12 Q. Were you new to taking that at the  
13 time of the shooting or is it something you had  
14 been on for a while?

15 A. No, I was on it for a while.

16 Q. Okay. Had you had any new changes to  
17 your medication, like a dosage or a brand  
18 change --

19 A. No, ma'am.

20 Q. -- around the time of the shooting?

21 A. No.

22 Q. And you stopped taking that in 2017?

23 A. Yes.

24 Q. Or 2016?

25 A. Two years ago from now, so 2016.

1 Q. Okay. Any other medications you took  
2 for your mood or for your depression?

3 A. No, ma'am.

4 Q. Any other medications that you were  
5 on at the time of the shooting?

6 A. No, that was it. Maybe a  
7 multivitamin but nothing prescribed.

8 Q. And what documents have you reviewed  
9 in preparation for the deposition?

10 A. For the deposition none.

11 Q. Have you looked at your -- I guess  
12 the sheriff calls it the incident report, the  
13 typed statement or narrative --

14 A. Not --

15 Q. -- have you looked at that recently?

16 A. Not recently in preparation for this.

17 Q. Have you looked at that in the last  
18 month?

19 A. No.

20 Q. Do you know the last time you looked  
21 at your statement?

22 A. Maybe last year or the year before.

23 Q. Any --

24 A. In --

25 Q. Any other documents related to the

1 case, any of the exhibits we've been using, have  
2 you looked at any of those recently?

3 A. I was provided, I don't know what  
4 they call it, a form that was provided from your  
5 office that we had to answer. I had to sign it so  
6 I was provided a copy, whatever that form was to  
7 sign.

8 Q. Oh, the questions that you answered?

9 A. Yes.

10 Q. The interrogatories?

11 A. Yes.

12 Q. Okay.

13 A. I was provided that and I signed it,  
14 but that's the only thing that I was provided.

15 Q. Have you looked at any of the  
16 evidence in the case; photographs, the audio  
17 recordings of the dispatch, the 911 calls,  
18 anything like that?

19 A. Other than what I saw in Deputy  
20 Teague's deposition, no, I have not recently.

21 Q. And how old are you today?

22 A. Thirty-nine.

23 Q. And do you have any military  
24 experience?

25 A. No.

1 Q. Any arrests or nonmoving violation  
2 tickets?

3 A. No, ma'am.

4 Q. And what's your educational  
5 background?

6 A. High school diploma. The rest is  
7 career related, tech school.

8 Q. And where did you graduate from high  
9 school?

10 A. Brookville High School.

11 Q. You started at the Montgomery County  
12 Sheriff's in 2004?

13 A. 2003.

14 Q. 2003. And that was as a corrections  
15 officer?

16 A. Yes, ma'am.

17 Q. And when did you move up to being a  
18 sheriff's deputy?

19 A. November of 2004.

20 Q. And how long were you a sheriff's  
21 deputy?

22 A. Until 2016 when I retired.

23 Q. And when was that in '16?

24 A. July.

25 Q. And why did you retire so early?

1 A. I took a medical retirement.

2 Q. And I think the sheriff -- I took the  
3 sheriff's deposition the other day and I think he  
4 mentioned that you were on disability --

5 A. Yes.

6 Q. -- is that right? And he thought you  
7 could still come back to work.

8 A. That's correct.

9 Q. Okay. Do you have plans to come back  
10 to work at the sheriff's office?

11 A. I've thought about it.

12 Q. And what's your time frame for being  
13 able to come back to work?

14 A. I think legally I have within five  
15 years to come back.

16 Q. And what would you want to have  
17 happen before you came back to work here? What  
18 would need to happen with regard to your  
19 disability.

20 A. As far as what would allow me to come  
21 back? I would have to get cleared by my family  
22 doctor, the pension board's doctor, and be voted  
23 on by the pension board.

24 Q. Okay. And have you gone through any  
25 of those processes yet?

1 A. Yeah, actually, I have. Yes.

2 Q. And does your doctor think you're  
3 ready to come back to work?

4 A. I'm currently waiting, hopefully  
5 today, to be voted on.

6 Q. So your doctor has already said yes?

7 A. Yes.

8 Q. And you're waiting for the pension  
9 board vote?

10 A. I'm waiting for the response from the  
11 pension doctor as well as the actual pension board  
12 itself.

13 Q. And when do you think the earliest  
14 you could come back to work?

15 A. That's up to -- between the pension  
16 board and the sheriff's office.

17 Q. And what is the disability that  
18 caused you to take early retirement or medical  
19 retirement?

20 MS. DINEHART: Objection.

21 THE WITNESS: Stress medical.

22 BY MS. BRANCH:

23 Q. What kind of -- work-related stress?

24 A. Combination of work related. All  
25 other stress accumulative from critical incidents



1 with a heavy emphasis on PTSD.

2 Q. You were saying you had accumulative  
3 stress from critical incidents?

4 A. Yes.

5 Q. And do you define a critical incident  
6 as an officer-involved shooting?

7 A. No.

8 Q. What's your definition?

9 A. Any incident involving death,  
10 accidents. They define it as it's not really a  
11 mental illness, it's an injury seeing trauma day  
12 in and day out every day on your job. It's not  
13 necessarily something that was inflicted or caused  
14 upon you, it's just what you witnessed.

15 Q. And for you to get that disability  
16 determination did the pension board have to  
17 approve your disability?

18 A. They sent me to an independent  
19 doctor.

20 Q. All right. And did the independent  
21 doctor ask you about your stress that you've had  
22 your whole time that you were a sheriff's deputy?

23 A. Absolutely, yes.

24 Q. And did your stress start when you  
25 started back in 2004 as a road officer?

1           A.     Since then I learned different  
2 triggers that happen that I wasn't aware of it.  
3 It wasn't necessarily identified as every single  
4 incident, just basic accumulative. Obviously the  
5 officer-involved shootings as well as a few other  
6 incidents was there, but it's a multitude of  
7 things.

8           Q.     Are you okay talking about it today  
9 at your deposition?

10          A.     We can get through it.

11          Q.     Okay. I don't know if I said this  
12 but if you need to take a break, you're welcome to  
13 take a break at any time just as long as you  
14 finish answering what the question is.

15          A.     Yes, ma'am.

16          Q.     Is the last critical incident that  
17 you witnessed the shooting of Dontae Martin?

18          A.     Yes, ma'am.

19          Q.     And after that shooting did you go on  
20 disability leave?

21          A.     No. After that shooting I was put on  
22 paid administrative leave from the sheriff's  
23 office. That's our normal policy.

24          Q.     And how long were you on paid  
25 administrative leave?

1           A.     Until sometime -- I went off payroll  
2 because I was out of sick leave, but I was off  
3 administratively until maybe January of 2016, and  
4 then I went off on my own doctor's request -- at  
5 my own doctor's request.

6           Q.     Okay. So when your administrative  
7 leave was over, did you ever come back to work or  
8 did you go right on sick leave?

9           A.     No, I came back to work.

10          Q.     And how long were you back to work?

11          A.     I don't recall. There was one time I  
12 was back a day. There was another time I was  
13 maybe back two days.

14          Q.     And since you were -- since you were  
15 cleared to come back at the end of the  
16 administrative leave in January of '16, did you  
17 come back to work in January?

18          A.     No. Once I finally got cleared to  
19 come back, I did not return.

20          Q.     Okay. That's what I was wondering.

21          A.     Yes.

22          Q.     All right. So in the clearance to  
23 come back to work did you have to go to a  
24 fitness-for-duty evaluation?

25          A.     I went to several of them regarding

1 debriefing of the Dontae Martin shooting. I guess  
2 they call it fitness-for-duty. It's a critical  
3 incident debriefing I think is how they categorize  
4 it.

5 Q. And did you hear Deputy Teague's  
6 testimony the other day that there was Dr. Daum?

7 A. Yes, ma'am.

8 Q. Was that the same --

9 A. Yes.

10 Q. Did you go through the same process  
11 that he did?

12 A. Yes, basically the same process.

13 Q. Okay. So Dr. Daum cleared you but  
14 wanted to wait until the grand jury was done  
15 before you came back to work?

16 A. I believe that's how it was. I know  
17 he cleared me and then allegedly he had other  
18 concerns and wanted to re-talk to me and then  
19 cleared me again, and then I was uncleared because  
20 of a documentation error that had to be  
21 straightened up and then I was cleared again. So  
22 it was a little office problem there during that  
23 time.

24 Q. And then did you also see a doctor in  
25 Columbus?

1 A. Yes, I did, Dr. Douglas.

2 Q. Douglas?

3 A. Yes.

4 Q. And did Dr. Douglas clear you?

5 A. He did.

6 Q. And then did you see a third doctor  
7 three times around December?

8 A. I did not see her three times. She  
9 was my attending psychologist prior to the  
10 fitness-for-duty from the sheriff's office. When  
11 I went there for my fitness-for-duty, I believe  
12 that's the time that I decided to go ahead and  
13 seek my medical retirement so I did not have I had  
14 to be seen three times like Deputy Teague did.

15 Q. I see, because you didn't need the  
16 fitness-for-duty sign-off because you were going  
17 to go on medical retirement?

18 A. Yes, ma'am.

19 Q. And what was that doctor's name?

20 A. Dr. Platoni.

21 Q. And where is she based?

22 A. Centerville.

23 Q. Have you provided any of these  
24 medical records from Dr. Platoni or any other  
25 doctor you've seen for your stress leave to the

1 County?

2 A. Not reference to my medical. That  
3 went to the pension board. Now, the  
4 fitness-for-duty ones the doctors write up a  
5 report and give them back to them because it's  
6 pertaining to the job; but as far as my medical  
7 retirement, that's not pertaining to the job so  
8 the sheriff's office did not get those.

9 Q. Okay. And what about your attorneys,  
10 have you provided those to your attorneys?

11 A. No. No, ma'am.

12 Q. When you went on stress leave then --  
13 or disability because of your stress, was that mid  
14 January 2016?

15 A. It actually took -- yeah. January is  
16 when I went on leave where I said I can't come  
17 back, but it took almost six months to actually  
18 get my medical retirement. The process is pretty  
19 slow.

20 Q. And you ran out of sick time, I take  
21 it?

22 A. Yes.

23 Q. What did you do for income during  
24 that time before you got your disability approved?

25 A. Did what I had to do to survive, and

1 luckily at the time my wife worked so we were able  
2 to get through.

3 Q. Did you stay in law enforcement?

4 A. No, I didn't work at all --

5 Q. Okay.

6 A. -- because I was obviously  
7 conditioned for trying to retire. You can't work,  
8 and if you can't -- obviously being off for injury  
9 or leave for the sheriff's office, you're not  
10 allowed to work also. It would be a violation of  
11 policy.

12 Q. So prior to the shooting of Dontae  
13 Martin you were involved in an officer-involved  
14 shooting of a James Wright --

15 A. Yes.

16 Q. -- in December of '14?

17 A. Yes, ma'am.

18 Q. Were there any other shootings  
19 between December of '14 and July of '15 that you  
20 were involved in?

21 A. Not directly. I did respond to  
22 scenes where other agencies have shot somebody,  
23 but me personally being involved in, no.

24 Q. Is part of the stress that you  
25 experience related to those scenes that you showed

1 up at where someone else had done the shooting?

2 A. Well, the stress is related to  
3 numerous incidents. I mean, child deaths in my  
4 career. I mean, I can't say it affected me. That  
5 one, per se, I don't know. It's just accumulative  
6 of a whole bunch of stress.

7 Q. How many officer-involved shootings  
8 have you been in?

9 A. Three total.

10 Q. So Mr. Davis, Mr. Wright, and  
11 Mr. Martin?

12 A. Yes, ma'am.

13 Q. And how many have you witnessed but  
14 you didn't actually pull the trigger?

15 A. That I actually witnessed. One.

16 Q. And what --

17 A. Dayton Police Department, Officer  
18 Cromwell.

19 Q. And did that person survive?

20 A. No.

21 Q. And can you tell me about that one,  
22 just what your role was?

23 A. I was there after the car crash. I  
24 busted out the back windows of the car and the  
25 front windows to gain access, put the car in park



1 and removed the deceased subject's hand off the  
2 gear shifter.

3 Q. And was that person shot while they  
4 were driving?

5 A. They were shot as they -- they were  
6 crashed into the back of a fence of a residential  
7 area so he was shot as he was trying to ram  
8 through the fence with other officers and  
9 civilians on the other side of the fence.

10 Q. When was that incident?

11 A. I have no idea.

12 Q. Was that -- that was before Dontae  
13 Martin?

14 A. Yes, ma'am.

15 Q. Was it before Mr. Wright?

16 A. Yes, ma'am.

17 Q. Before Mr. Davis?

18 A. No.

19 Q. So between Davis and Wright?

20 A. Between 2007 and 2014.

21 Q. What other critical incidents stick  
22 out in your mind as being stressful to you in your  
23 experience that you haven't already told me about?

24 A. I was involved in a pedestrian/motor  
25 vehicle accident where a lady ran out in front of

1 my cruiser and I hit and killed her.

2 Q. And when was that?

3 A. 2012.

4 Q. Did you seek treatment after that?

5 A. I was sent to a fitness-for-duty  
6 because it was a line-of-duty death. Dr. Daum  
7 also.

8 Q. And did you need any treatment or  
9 therapy --

10 A. No, ma'am.

11 Q. -- or medication after that?

12 A. No, ma'am.

13 Q. What else sticks out in your mind as  
14 being traumatic or stressful for you?

15 A. Are we going to ask every single one  
16 because we'll be here a while because I can name a  
17 whole bunch?

18 Q. Well --

19 A. I mean.

20 Q. -- tell me the ones closer to 2015 if  
21 you recall the dates.

22 A. I don't -- I can't do that. I've  
23 been on numerous babies -- five dead babies where  
24 three out of the five I've done CPR and tried to  
25 save them. I've been on crashes and seen bodies

1 that burned up. I've tried to do CPR on people  
2 that's been shot and try to save their life. We  
3 can sit here all day and ask what I have seen my  
4 seventeen years.

5 Q. Were you in treatment or therapy  
6 before July of '15 for the stress that you've --

7 A. Yes.

8 Q. -- experienced at work?

9 A. Yes. I started between --

10 MS. DINEHART: Objection. Go ahead.

11 THE WITNESS: I started between 2014  
12 and 2015 after the Speedway shooting on my own  
13 accord, not ordered by the sheriff's office.

14 BY MS. BRANCH:

15 Q. And what made you decide you should  
16 pursue some treatment?

17 A. I just felt like I needed it, and my  
18 family life and home life confirmed that.

19 Q. And is that when you saw Dr. Platoni?

20 A. Yes, ma'am.

21 Q. And how long have you been with her?

22 A. From 2014 until 2016 --

23 Q. And --

24 A. -- off and on.

25 Q. Do you still see anyone for

1 psychological issues?

2 A. No, ma'am.

3 Q. Did you stop treating with her  
4 in '16?

5 A. Yes.

6 Q. And did you pick up with somebody  
7 else or that was just the end of your treatment?

8 A. No, we both agreed that I'm right  
9 where I need to be and no further treatment was  
10 necessary.

11 Q. Okay. So you completed your  
12 treatment plan?

13 A. Yes, ma'am.

14 Q. Do you have a diagnosis today?

15 A. PTSD. Severe PTSD.

16 Q. And when did you get the PTSD  
17 diagnosis?

18 A. From Dr. Platoni in 2014. Sometime  
19 in 2014. I also had depression and anxiety at  
20 that time, which is no longer an issue.

21 Q. Your depression has been resolved?

22 A. Yes, ma'am.

23 Q. And when did you first know you were  
24 diagnosed with the depression?

25 A. Same time.

1 Q. So is it after the shooting of  
2 Mr. Wright or before the shooting?

3 A. Before the shooting of Mr. Wright.

4 Q. So earlier in '14, not December  
5 of '14?

6 A. Yeah, it was earlier.

7 Q. Got it. All right.

8 A. I'm sorry, correction. No, it was  
9 after the shooting in 2014 of Mr. Wright.

10 Q. Okay.

11 A. So between the 2014 Mr. Wright and  
12 Mr. Martin is when I got diagnosed and sought  
13 treatment.

14 Q. That was sort of the straw that broke  
15 the camel's back --

16 MS. DINEHART: Objection.

17 BY MS. BRANCH:

18 Q. -- the shooting involving Mr. Wright?

19 A. No. No. It was more of the family.  
20 I did it for my family, not necessarily for work.

21 Q. Family related to your marriage?

22 A. Yes, my marriage, my children,  
23 myself, my well-being.

24 Q. And then your depression diagnosis  
25 and anxiety, those were all at the same time as

1 the PTSD?

2 A. Yes.

3 Q. And since then the depression has  
4 been resolved and the anxiety has been resolved?

5 A. Yes, ma'am.

6 Q. In 2016?

7 A. Yes.

8 Q. Any further treatment for your PTSD?

9 A. No, ma'am.

10 Q. Any work that you need to do to  
11 function with PTSD?

12 MS. DINEHART: Objection.

13 BY MS. BRANCH:

14 Q. You'll always have that diagnosis,  
15 right?

16 A. Yes. It will never go away. It's  
17 just learning to live with it and how to adapt and  
18 overcome it. Learning your triggers.

19 Q. Okay.

20 A. Stuff that I was unaware of at the  
21 time and that I've since learned a lot about.

22 Q. So you've learned your triggers.  
23 Have you also learned coping skills?

24 A. Yes, ma'am.

25 Q. Okay. And is trauma related to

1 police work, like shootings, a trigger for your  
2 PTSD?

3 A. I don't know. I've been retired for  
4 two years so I would assume not. I know I'm a  
5 fireman and an EMT now so I see trauma every day  
6 and it doesn't affect me as far as car crashes  
7 and --

8 Q. Prior to treatment would a shooting  
9 have been a trigger for your PTSD?

10 A. No. My trigger was more my home  
11 life. My work life was -- I loved going to work  
12 and that wasn't a problem. I couldn't cope with  
13 home. It sounds bad, I'd much rather deal with  
14 work than my own family at home. That was my  
15 trigger.

16 Q. And tell me about your employment  
17 since you've left the sheriff's office.

18 A. I work for the Phillipsburg Fire  
19 Department part time. Firefighter/EMT.

20 Q. Part time?

21 A. Yes.

22 Q. Do you also collect disability on top  
23 of that?

24 A. Yes, ma'am.

25 Q. Is there a limit to how much you can

1 work and still collect disability?

2 A. No, I just have to -- whatever job  
3 has to be approved by the pension board and it  
4 can't be like and similar to my previous job  
5 description, which would have been law  
6 enforcement. Basically I submit a letter, they  
7 approve it and say yea or nay.

8 Q. And since you've been a firefighter  
9 and EMT have you experienced -- have you been  
10 involved in any deaths?

11 MS. DINEHART: Objection.

12 BY MS. BRANCH:

13 Q. Having to treat somebody or respond  
14 to a scene where someone had died or was dying?

15 A. Dying, yes, but from natural causes,  
16 not by outside causes.

17 Q. I see. And that did not trigger  
18 PTSD?

19 A. No, ma'am.

20 Q. I'm going to ask you questions about  
21 July 23rd, 2015, the shooting of Dontae Martin.

22 A. Yes, ma'am.

23 Q. And I may refer to it as the shooting  
24 or the incident and it will be Dontae Martin from  
25 now forward unless I specify otherwise, okay?



1 A. Yes, ma'am.

2 Q. You were on third shift at the time?

3 A. That's correct. Well, first shift  
4 for us.

5 Q. I'm sorry. I keep doing that.

6 A. First shift of the day.

7 Q. First shift for you starting at like  
8 11:30 p.m.?

9 A. Yes, ma'am, 11:30 to 8:02.

10 Q. And you were working in Harrison  
11 Township?

12 A. Yes.

13 (Thereupon, Plaintiff's Exhibit 20,  
14 one colored photograph, was previously marked for  
15 purposes of identification.)

16 BY MS. BRANCH:

17 Q. If you could turn to Exhibit 20, I  
18 just want to see is that an accurate photograph of  
19 you that day?

20 A. Yes, ma'am.

21 Q. I've got the additional photographs.  
22 It looks like they took a photograph of you like  
23 in a circle?

24 A. I was a little skinnier but that's  
25 me.

1 Q. Well, I was going to ask you how much  
2 did you weigh back then?

3 A. Actually I got down to one eighty.

4 Q. So you were at one eighty?

5 A. Yes. I lost forty pounds.

6 Q. And what was your height?

7 A. Five seven.

8 Q. How about with your uniform shoes?

9 A. It's just standard Under Armour  
10 tennis shoes so there's not much heel.

11 (Thereupon, Plaintiff's Exhibit 57,  
12 three colored photographs, was marked for purposes  
13 of identification.)

14 BY MS. BRANCH:

15 Q. Okay. So 57, could you identify that  
16 as being the photographs -- the other photographs  
17 that were taken of you on July 23rd, 2015 from the  
18 back, from the right, and from the left sides?

19 A. Yes, ma'am, that is me.

20 Q. All right. You're allowed to wear  
21 shorts in Montgomery County?

22 A. Yes. It's a bike uniform. It's a  
23 standard bike uniform. I had completed bike  
24 school so I was a bike officer.

25 Q. And on the -- I guess starting with

1 the first one, Exhibit 20 at the front, can you  
2 tell me what your equipment was that you were  
3 carrying?

4 A. What you can see is a county-issued  
5 taser, double mag pouch. It's kind of dark but  
6 you can see my radio would be on my left hip.  
7 Pepper spray and handcuffs would be on my front  
8 right followed by my gun and my asp on my right  
9 hip. Behind my radio would be my flashlight. You  
10 can also see the mic to my portable clipped to the  
11 front of my shirt. And I had a knife in my duty  
12 belt.

13 Q. And where's the knife?

14 A. It's on the front right. My front  
15 right. It would be the left of the picture. You  
16 can just see that little -- that glimmer shine. I  
17 don't know if you can see that. That's where the  
18 knife would be located.

19 Q. Oh, I see it on the fourth -- the  
20 last page of Exhibit 57.

21 A. Yes, ma'am, right behind my  
22 handcuffs.

23 Q. And where's the pepper spray?

24 A. That's in front of my duty holster.  
25 The fourth picture. It's in the front of my duty

1 holster.

2 Q. In the pouch?

3 A. Yes.

4 Q. Got it.

5 A. Then I had keys.

6 Q. And your flashlight, I guess we can  
7 see that on page two --

8 A. Yes.

9 Q. -- of Exhibit 57?

10 A. It's behind my radio.

11 Q. It looks like the flashlight is on  
12 during the photograph. Can you tell?

13 A. I don't know if it's on or the  
14 reflection from the camera.

15 Q. Oh.

16 A. I would assume the reflection of the  
17 camera because I think you would have seen it on  
18 my shirt, but I can't say for sure.

19 Q. That was a Stinger LED?

20 A. Yeah, Stinger.

21 Q. Stinger?

22 A. County-issued flashlight.

23 Q. Does it have any settings; bright,  
24 low beam?

25 A. No, I think it's just one. I think

1 it might have a strobe, but I'm not a hundred  
2 percent sure. I think it does have a strobe  
3 function but only one brightness.

4 Q. All right. And you're right-handed?

5 A. Yes, ma'am.

6 Q. And that's why your weapon is on your  
7 right side?

8 A. Correct.

9 Q. You carried a Glock 17?

10 A. Yes.

11 Q. Where is the asp?

12 A. It would be behind. It's an empty  
13 pouch. It's behind my holster on my right side.

14 Q. So on the first page of 57 it's the  
15 empty pouch?

16 A. Yes, ma'am.

17 Q. Where was the asp at that point?

18 A. It was left at the crash scene.

19 Q. Did it break or bend?

20 A. No. Apparently I threw it down at  
21 some point. Actually I threw it down before I  
22 went and got the AED.

23 Q. And your Glock 17 is a semiautomatic  
24 weapon?

25 A. Yes, ma'am.

1 Q. And when you pulled the trigger on  
2 your weapon, you could do a controlled single shot  
3 even though it was semiautomatic; is that right?

4 A. No, that's incorrect. Every trigger  
5 pull is one shot. In order to be semiautomatic  
6 you've got to pull the trigger several times.  
7 You've actually got to pull the trigger. Full  
8 automatic is where you hold the trigger down,  
9 which we don't have, that's illegal.

10 Q. So in your operating in this  
11 semiautomatic, you would take your finger slightly  
12 off the trigger --

13 A. Correct.

14 Q. -- and then you'd be able to  
15 discharge another cartridge?

16 A. Yes, that resets the cartridge and  
17 you have to physically pull it a second time to  
18 get a second round.

19 Q. So for you to use it in semiautomatic  
20 form --

21 A. Uh-huh.

22 Q. -- and expel seven cartridges, how  
23 long would that take if you were doing it as  
24 quickly as you could?

25 MS. DINEHART: Objection.

1 THE WITNESS: I have no idea. You'd  
2 have to pull it seven times. So however long it  
3 takes to pull a five and a half pound trigger I  
4 believe is what we carried -- we're required to  
5 carry. So however long it took you to pull a five  
6 and a half pound trigger seven times.

7 BY MS. BRANCH:

8 Q. And how about you --

9 A. I never tested it. I don't know how  
10 long it takes me.

11 MS. DINEHART: Make sure she finishes  
12 her question.

13 THE WITNESS: Oh, I'm sorry.

14 BY MS. BRANCH:

15 Q. You were used to using the Glock  
16 17 -- in July of '15, that had been your service  
17 weapon; is that right?

18 A. Yes, ma'am.

19 Q. And you would use that to get your  
20 qualifications every year?

21 A. Yes, ma'am.

22 Q. And you qualified without problem  
23 every year with your weapon?

24 A. That's correct.

25 Q. And you're used to using it on the

1 firing range in a way that you could unload the  
2 entire magazine?

3 A. No. We do drills, certain drills.  
4 We've never -- the only time we've emptied the  
5 whole gun, that would be if we have any rounds  
6 left over after the end of the qualifications, but  
7 we never trained to empty the whole magazine. We  
8 have a certain amount of rounds that have to be  
9 fired per the State.

10 Q. Do you train to use it in the  
11 semiautomatic mode?

12 A. That's the only mode it can be used  
13 in.

14 Q. Your magazines, you said you had a  
15 double magazine pouch, each of your magazines held  
16 seventeen rounds --

17 A. That's correct.

18 Q. -- back in July of '15?

19 A. That's correct.

20 Q. All right. And your weapon had the  
21 capacity of holding eighteen rounds; is that  
22 correct?

23 A. That's correct. Yes, ma'am.

24 Q. Was that your normal way of carrying  
25 your firearm, that you would have one in the



1 chamber and then seventeen in the magazine?

2 A. Yes.

3 Q. And that night did you have one in  
4 the chamber and seventeen in the magazine?

5 A. Yes.

6 Q. Plus two seventeen magazines on your  
7 belt?

8 A. Yes.

9 Q. So the records that I've seen  
10 indicate that the sheriff's department found ten  
11 cartridges left in your magazine and one in the  
12 chamber. Does that sound right?

13 A. I believe so.

14 Q. Let me ask that better. After the  
15 shooting was over your weapon was examined?

16 A. Correct.

17 Q. And at that time after the shooting  
18 there were ten left in the magazine and one left  
19 in the chamber; is that right?

20 A. That's what I saw per the paperwork,  
21 but that night I had no clue.

22 Q. Okay. So that would -- if it were  
23 eleven cartridges left in your weapon after the  
24 shooting, that would mean seven were fired; is  
25 that right?

1           A.     I think there was -- I mean, yeah,  
2 because it holds eighteen. If they're saying they  
3 found eleven, so that would be seven. I don't  
4 know exactly what they found. I know on the --  
5 from what I read later on, I think it was ten and  
6 one in the magazine.

7           Q.     Okay. So you have no reason to  
8 dispute the forensics' determination that there  
9 were eleven left in the weapon after the shooting?

10          A.     No. I never checked so if that's  
11 what they're saying, then I have no reason to  
12 believe they would lie or --

13          Q.     Do you know sitting here today how  
14 many times you discharged your weapon?

15                 MS. DINEHART: Objection.

16                 THE WITNESS: (Witness shaking head  
17 from side to side.)

18 BY MS. BRANCH:

19          Q.     So -- you're shaking your head no?

20          A.     No.

21          Q.     Does seven -- do you have any reason  
22 to believe that seven is not the correct number?

23                 MS. DINEHART: Objection.

24                 THE WITNESS: Is there a paper that  
25 said I fired seven?

1 BY MS. BRANCH:

2 Q. No. In fact, it says you fired six.

3 A. Six.

4 Q. Yeah, because I don't think they were  
5 counting the one in the chamber.

6 A. Yes, because I read I fired six so  
7 that means that number is incorrect.

8 Q. Right. That's what I've been trying  
9 to figure out.

10 A. So I read from the paper that I fired  
11 six so, yes, the math is incorrect. So I don't  
12 know -- I can't answer where that missing round  
13 is.

14 Q. I think what might have been missing  
15 from the investigator's knowledge was that you had  
16 one cartridge in the chamber in addition to the  
17 seventeen in the magazine. So did anybody ever  
18 ask you that that night or soon after --

19 A. No, ma'am.

20 Q. -- how you loaded your weapon that  
21 night?

22 A. Not that night, no, ma'am.

23 Q. Am I the first one to ask you if you  
24 had one in the chamber?

25 A. No, I think it was asked during my

1 interview with Isaiah Kellar, Detective Kellar if  
2 I carried the normal ammunition, normal load,  
3 which would be seventeen and one.

4 Q. And do you know -- I didn't see it in  
5 his interview of you, which I have read recently,  
6 but if you were asked by Detective Kellar, you  
7 would have said seventeen plus one in the chamber?

8 A. Absolutely.

9 Q. Okay. So if my math is right, it  
10 sounds like you fired seven shots this night?

11 A. I don't know.

12 Q. The statements that you've given to  
13 the sheriff's department, that included the  
14 incident report that you turned in on July 28th,  
15 2015 to Sergeant Kellar; is that right? That's  
16 one statement you've given?

17 A. Yeah. I entered a report statement  
18 in the computer, correct.

19 Q. What do you call that? I've been  
20 using the --

21 A. Incident report.

22 Q. Incident report?

23 A. Yes.

24 Q. Okay. I'll use that.

25 A. I didn't necessarily give it to

1 Kellar. I just entered it in the computer.

2 Q. And when did you enter it into the  
3 computer?

4 A. It would have been within the week of  
5 the shooting, three days after, roughly.

6 Q. Now, Detective Kellar told me that he  
7 got your statement the day he met with you and  
8 your attorney Robert Sauter, and that was July  
9 28th. Does that sound right to you?

10 A. He could have printed it off the  
11 computer. Once it's entered in the computer  
12 anybody can have access to it.

13 Q. And how do we know what date you  
14 entered it into the computer?

15 A. Do you have my report?

16 Q. Yes. Let's make it an exhibit.  
17 Let's make it a separate exhibit.

18 A. It may or may not show on the report.  
19 Everything is tracked, who looks at the reports,  
20 when it's looked at, what time, when it's entered  
21 so...

22 (Thereupon, Plaintiff's Exhibit 58,  
23 Deputy Joshua Haas' statement, was marked for  
24 purposes of identification.)

25 BY MS. BRANCH:

1 Q. So this is the one that I have that I  
2 marked as Exhibit 58. Does this look familiar to  
3 you?

4 A. Yes, this is a copy of my report  
5 which says it was -- well, it gives a printed  
6 date. Wait a minute. It shows a printed date.  
7 It does not show a date entered into the computer  
8 so --

9 Q. And how would I know from looking at  
10 a printed version what date it was entered into  
11 the computer?

12 A. I don't think you can by -- I think  
13 you would have to look at the actual computer  
14 system because when we enter the reports, it will  
15 show the current date and we go back and change  
16 the date for the time of the actual incident so  
17 there's no discrepancies on which date it  
18 happened. But I know if you go into the actual  
19 reporting system, it should show what date it was  
20 completed on.

21 Q. Well, I've asked. I think your  
22 attorneys have tried to look for the final version  
23 with that. This is the best I've gotten. The  
24 only difference -- I've gotten various copies of  
25 this. The only difference is the printed dates

1 have changed.

2 A. All of them are going to say draft --

3 Q. Right.

4 A. -- until it's finally approved or --

5 Q. Was it ever finally approved?

6 MS. DINEHART: Objection.

7 THE WITNESS: I have no idea.

8 BY MS. BRANCH:

9 Q. I've seen in other incident reports  
10 in other cases where the box -- see where the box  
11 says approving officer, approval date, and  
12 approval time, I've seen that filled in in other  
13 incident reports. Is that the typical way a final  
14 version should look?

15 A. I would -- I would assume this case  
16 was so big that nothing was finalized, but I don't  
17 know how they did it. But I can tell you all --  
18 when we complete ours, all of ours will say draft  
19 until changed by the administrators I guess.

20 Q. And who is the approving -- who would  
21 have been the approving officer for Exhibit 58?

22 A. I have no idea. I would assume it  
23 would either be somebody in the command staff or a  
24 head detective would be my guess. It would not be  
25 a road sergeant in this case.

1 Q. Should I assume then by looking at  
2 Exhibit 58 and the box is not filled in by the  
3 approving officer, approval date, or approval time  
4 that this version was never approved?

5 MS. DINEHART: Objection.

6 THE WITNESS: I can only assume on  
7 the day it was printed it wasn't because it's not  
8 filled in, but it does --

9 BY MS. BRANCH:

10 Q. And I've had these reprinted on  
11 different dates, including recently in this  
12 calendar year, and they -- none of them have those  
13 boxes filled in. Do you know why?

14 A. No, ma'am.

15 Q. Did anyone ever tell you they  
16 approved your statement, your incident report?

17 A. I would assume they have. Nobody  
18 told me they didn't approve it.

19 Q. Do you see in the box that says  
20 reported date 7/23/2015?

21 A. Yes.

22 Q. And reported time 42, do you see  
23 that?

24 A. Yes.

25 Q. Is the 42 when the incident started,



1 not when you wrote your statement?

2 A. Correct.

3 Q. And the date 7/23/15, is that the  
4 date you wrote your first draft of the statement  
5 or is that the date of the incident?

6 MS. DINEHART: Objection.

7 THE WITNESS: That's the date of the  
8 incident.

9 BY MS. BRANCH:

10 Q. Do you have anything in your  
11 possession or do you know of anything at the  
12 sheriff's office that would help us determine when  
13 you wrote your report on the --

14 A. I have nothing. The only thing I can  
15 say is have somebody check the actual computer  
16 because every time somebody looks at a report it  
17 logs their name who looked at the report and time.  
18 So I could only assume that it would show when I  
19 completed the report, but I physically have  
20 nothing that I could give you to say when I  
21 completed it. I know it was after three days and  
22 I typed it at the district.

23 Q. Okay. And at the time you typed it  
24 did you have access to the other reports related  
25 to this incident number?

1 A. No, ma'am.

2 Q. How about did you have access to any  
3 of the evidence that was being accumulated by the  
4 investigators?

5 A. No, ma'am.

6 Q. Had you talked to Officer Teague --  
7 or Deputy Teague about the incident before you  
8 wrote your incident report?

9 A. Yes, I asked him one question.

10 Q. And what was that?

11 A. Where was he standing and how's come  
12 I didn't kill him.

13 Q. And why did you ask that?

14 A. Because I thought he was at the  
15 passenger side window and I thought there would  
16 have been crossfire and I didn't know how I didn't  
17 shoot him. That's the only question I asked him.  
18 And that wasn't for the report, that was the only  
19 question I asked him because I didn't know how I  
20 didn't shoot him.

21 Q. And what did he say?

22 A. He said he wasn't at the window. He  
23 was back by the trunk. That's the only question  
24 that I asked him.

25 Q. And was that before you finished your

1 report or while you were writing your report?

2 A. No, that was the second day after the  
3 shooting, that morning, because it bothered me all  
4 night not knowing how I didn't shoot him.

5 Q. What's crossfire?

6 A. Where you have two individuals,  
7 they're in a location where they're shooting and  
8 the paths cross each other and potentially  
9 shooting each other. Whether it's military, law  
10 enforcement, recreational shooting, I wouldn't  
11 want to be shooting toward you, you wouldn't want  
12 to be shooting toward me because it's crossfire.

13 Q. And you're trained to avoid  
14 crossfire?

15 A. Whenever possible, yes.

16 Q. And what was it that you were  
17 thinking about overnight that made you think that  
18 he was in your crossfire?

19 A. Because normal approaches on  
20 vehicles, one goes up to the driver's side, one  
21 goes up to the passenger side window which would  
22 have led me to believe that's where he was  
23 standing.

24 Q. In your mind when you were thinking  
25 back on this shooting overnight were you thinking

1 that you saw Teague at that window?

2 A. No. No.

3 Q. You just assumed he was there?

4 A. I just assumed he was there, and I  
5 didn't know how I didn't shoot him.

6 Q. I see. And your assumption that he  
7 was there was based on the approach you expected  
8 him to have taken?

9 A. Correct.

10 Q. And that approach would have taken  
11 him to the passenger side front --

12 A. B pillar.

13 Q. -- pillar. The pillar between the  
14 front --

15 A. Yes.

16 Q. -- and the back window?

17 A. Yes, ma'am.

18 Q. But you never actually saw him there?

19 A. No, ma'am.

20 Q. So when you were thinking about the  
21 incident through your mind's eye, your memory --

22 A. Uh-huh.

23 Q. -- in that day or two after the  
24 shooting, you have no memory of seeing him at that  
25 pillar or the front window?

1           A.     No, absolutely not. I had no idea  
2 where he was at, that's why I only assumed he was  
3 there.

4           Q.     When he said he was at the back --  
5 did you say fender?

6           A.     He was back at the back trunk area.

7           Q.     Back trunk area.

8           A.     I don't know exactly where he was.  
9 That's just where he told me.

10          Q.     Did that jog your memory that you saw  
11 him back there?

12                   MS. DINEHART: Objection.

13                   THE WITNESS: No.

14 BY MS. BRANCH:

15          Q.     So you just never saw him --

16          A.     No, I never saw him in general. I  
17 just didn't know how I didn't shoot him. That was  
18 more like thank God you were there and I didn't  
19 have to worry about the crossfire.

20          Q.     Thinking back on the shooting today,  
21 where was Teague -- what's your memory of where  
22 Officer Teague was at the time that you shot?

23                   MS. DINEHART: Objection.

24                   THE WITNESS: My memory --  
25 absolutely. I have no clue.

1 BY MS. BRANCH:

2 Q. You had no idea where he was?

3 A. No clue.

4 Q. How about when you were done  
5 shooting, where was he?

6 A. When I was done shooting, he was at  
7 the trunk because that's where I located him  
8 because that's where I retreated back to. Trunk  
9 meaning the rear of the car, not necessarily on  
10 the trunk.

11 Q. Yeah. So he said in his deposition  
12 the other day that he took cover at the back of  
13 the Grand Prix after he shot. Do you remember his  
14 testimony about that?

15 A. I knew -- he said he retreated back  
16 that way. I don't know exactly where he said he  
17 took cover, whether it was behind the trunk or the  
18 quarter panel or the car. I think he said the  
19 car. Without reading his deposition, I don't want  
20 to quote him.

21 Q. And where did you go after you were  
22 done shooting?

23 A. I retreated to the back trunk area  
24 behind the actual trunk.

25 Q. More in the center of the car?

1           A.    No, toward like the left rear  
2 taillight.

3           Q.    Were you both on the back of the car,  
4 one on the left, one on the right?

5           A.    Yeah, we would have been -- I don't  
6 know exactly if we were side by side, but I would  
7 have been on the left driver's side, he would have  
8 been on the left passenger side.

9           Q.    Okay. And do you remember seeing him  
10 back there?

11          A.    Yes.

12          Q.    And how long were you back there  
13 together?

14          A.    Seconds, if that. Enough to tell him  
15 that I can't see into the car, does the driver  
16 still have a gun.

17          Q.    And what did he say?

18          A.    He said he couldn't see him. And at  
19 that time is when I told him I was going to bust  
20 out the rear passenger window so we could see in  
21 the vehicle.

22          Q.    And what happened then?

23          A.    As -- once I busted the rear window  
24 out, I could see Mr. Martin sitting in the seat  
25 leaning on the back headrest with apparent gun

1 wounds -- bullet wounds to the side of his face.  
2 At that time Sergeant Jim McLaughlin arrived on  
3 scene.

4 Q. I went off on that tangent there.  
5 Sorry.

6 A. You're fine.

7 Q. So I was asking about when you were  
8 writing your statement on the computer. In the  
9 sheriff's office, is that where you were?

10 A. Uh-huh.

11 Q. Is that the normal place where you  
12 would write your incident reports?

13 A. Yeah, I went to Harrison Township  
14 substation. That's where I was assigned to.

15 Q. And when you entered the information  
16 into the computer, did you -- you had already  
17 talked to Deputy Teague about where he had been  
18 when you were shooting?

19 A. Yeah, it would have been prior. The  
20 very next day I called Deputy Teague. So I wrote  
21 the report, it would have been several days after  
22 that.

23 Q. Okay.

24 A. The very next day, that morning, I  
25 called Teague and asked where he was standing. I



1 didn't complete the report until later on that  
2 week.

3 Q. So I want to be clear. So the 23rd,  
4 the shooting took place a little bit before 1:00  
5 a.m.?

6 A. I guess I should say it would have  
7 been the same day. The morning of the 23rd I  
8 called Teague.

9 Q. Okay. Got it.

10 A. So it still would be the same day  
11 that I called Teague, but I did not complete my  
12 report until later on that week.

13 Q. When you completed your report, did  
14 you share it with anyone?

15 A. Yes, I did.

16 Q. And who was that?

17 A. I completed a draft, gave it to my  
18 attorney, Bob Sauter, who reviewed it.

19 Q. Did he make any edits or changes,  
20 suggestions?

21 MS. DINEHART: Objection. Don't talk  
22 about anything that you two talked about, okay?

23 THE WITNESS: Right. Grammar.

24 Commas. That's it.

25 BY MS. BRANCH:

1 Q. And what did you do after he made  
2 his -- I'm sorry. Did he actually edit it, like  
3 with a pen --

4 A. No. He told me --

5 Q. -- or did he tell you what to do?

6 A. No. He advised me. It's my report.  
7 I wouldn't allow nobody to change it.

8 Q. And did you make changes --

9 A. Yes, I did.

10 Q. -- after you talked to him?

11 A. Yes, I did.

12 Q. Back at the substation?

13 A. I don't know if it was the substation  
14 or via conversation because I completed the draft  
15 prior to the substation. The substation is where  
16 I entered it.

17 Q. Oh, I see. So you shared with him a  
18 draft before you went to the substation to type?

19 A. Yes, ma'am.

20 Q. And did you type a draft in like Word  
21 or --

22 A. Yes.

23 Q. And where did you type that?

24 A. I typed it at home, sent him the  
25 copy.

1 Q. By e-mail or fax?

2 A. I don't remember which it was. I  
3 don't know how to e-mail so I'm assuming it was a  
4 fax. He told me the grammatical changes, I  
5 entered it and then shredded that copy, my draft,  
6 once it was entered into the computer.

7 Q. And by computer, do you mean the  
8 Harrison Township sub --

9 A. The Harrison Township reporting  
10 system.

11 MS. DINEHART: Try not to talk over  
12 her, okay?

13 THE WITNESS: I'm sorry. I'm sorry.

14 BY MS. BRANCH:

15 Q. That's okay. When you shredded the  
16 draft, was that at home?

17 A. No, that's the County shredding  
18 thing.

19 Q. And why did you shred the draft?

20 A. Because nobody needed that draft.  
21 This is the only true -- true accurate report that  
22 I wanted. I didn't want any missed commas or  
23 missed words or anything. This is my final  
24 statement (indicating).

25 Q. Did you tell anybody at the sheriff's

1 office that you had shredded your first draft?

2 A. No. They didn't even have knowledge  
3 I typed that out.

4 Q. Did anybody -- has anybody from the  
5 sheriff's office asked you these detailed  
6 questions about your incident report like I am?

7 MS. DINEHART: Objection.

8 THE WITNESS: No, because at times we  
9 write drafts out many of times and it's not a  
10 common thing where we write a draft out, type it  
11 in, and then shred it. Just like any -- like a  
12 hospital run we do now, we take notes and then we  
13 shred those notes for people's safety and then  
14 enter a final draft.

15 BY MS. BRANCH:

16 Q. In officer-involved shootings that  
17 you've been in, is it common for you to write a  
18 draft, shred it, and only keep the final version?

19 MS. DINEHART: Objection.

20 THE WITNESS: I don't know if it's  
21 common practice. I know that was my thoughts  
22 because that's the reason why they have you not  
23 fill out a report after seventy-two hours after  
24 critical incidents because you are constantly  
25 always remembering stuff so that's why you put it

1 on paper in case you forget something because once  
2 it's in this paper (indicating) you can't change  
3 it. So, yes, it's my common practice where I will  
4 take notes myself and then if I remember  
5 something, that way it's not left out or I don't  
6 forget it or if it needs changed, and then once  
7 it's done, shred it because that's an incorrect  
8 version. This is the correct version.

9 BY MS. BRANCH:

10 Q. Well, I guess I was wondering if the  
11 sheriff's office knew or it was common for let's  
12 say a detective on the case investigating an  
13 officer-involved shooting that earlier drafts or  
14 notes were shredded?

15 MS. DINEHART: Objection.

16 THE WITNESS: No idea.

17 BY MS. BRANCH:

18 Q. You have no idea --

19 A. No.

20 Q. -- if they knew?

21 MS. DINEHART: Objection.

22 THE WITNESS: No.

23 BY MS. BRANCH:

24 Q. You didn't volunteer that you had  
25 shredded your draft?

1 MS. DINEHART: Objection.

2 THE WITNESS: No.

3 BY MS. BRANCH:

4 Q. And Detective Kellar didn't ask?

5 A. Correct.

6 Q. How about anybody from internal, did  
7 they ask you if you had any drafts of your  
8 incident report?

9 A. No, ma'am.

10 Q. You said it's -- you used the word  
11 they don't want you to fill out a critical  
12 incident report for seventy-two hours. Who is the  
13 they?

14 A. Yes, all training that you go to  
15 stresses don't complete a report until after  
16 seventy-two hours. I've been through numerous  
17 trainings put on by the sheriff's office that  
18 stresses this, as well as other trainings that  
19 stress this, just for the simple fact if you  
20 complete a report, you might remember stuff and  
21 now you're altering your original report and it  
22 doesn't look good so -- plus you can -- like I  
23 said, you don't remember everything that day.

24 Q. Have you ever done a supplemental  
25 report as an officer at the Montgomery County

1 Sheriff's Office?

2 A. Yes, numerous.

3 Q. And have you ever done a supplemental  
4 report reporting about something you remembered  
5 about an event after the -- after you wrote your  
6 first report?

7 A. No, I have not. The only supplement  
8 has been either to my original case or somebody  
9 else's case.

10 Q. Have you been -- have you ever been  
11 to a training in Montgomery County Sheriff's  
12 Office where you've been told to write a  
13 supplemental report if you remember something  
14 after the fact?

15 A. I have not personally, no.

16 Q. And are you aware that the policy for  
17 Montgomery County in the use of force policy says  
18 that when you use force or when you use your  
19 firearm, you are to fill out an incident report  
20 before the end of shift?

21 MS. DINEHART: Objection.

22 BY MS. BRANCH:

23 Q. Did you know that was the written  
24 policy of the department?

25 A. Yes.

1 Q. And did you know it was a written  
2 policy of the department to fill out a use of  
3 force report by the end of shift in addition to  
4 the incident report?

5 MS. DINEHART: Objection.

6 THE WITNESS: Yes.

7 BY MS. BRANCH:

8 Q. Anybody in this incident involving  
9 Dontae Martin ask you to fill out either an  
10 incident report or a use of force report before  
11 the end of your shift?

12 A. No. We were advised to get it done  
13 as soon as we feel we're capable of doing it.

14 Q. And who gave you that order?

15 A. Kellar.

16 Q. And what did you -- how did you  
17 interpret as soon as you were capable?

18 A. Everybody knows wait seventy-two  
19 hours so we really didn't have to think about it,  
20 and it was pretty much a written rule -- or  
21 unwritten rule, everybody knows you're not going  
22 to write it until after seventy-two hours.

23 Q. And in those seventy-two hours you  
24 had the opportunity to talk to your attorney?

25 A. Yes.



1 Q. And at least you asked a question of  
2 Deputy Teague?

3 A. I'm sorry?

4 Q. During that seventy-two hours you had  
5 the opportunity to talk to Deputy Teague?

6 MS. DINEHART: Objection.

7 THE WITNESS: I'm sure we did.

8 BY MS. BRANCH:

9 Q. Did you talk to him there on the  
10 scene before you guys left the scene that morning?

11 A. I'm sure we did, but I don't recall  
12 what the conversation was.

13 Q. Did you talk about the incident?

14 A. No. We never even -- we still  
15 haven't even spoke about it.

16 Q. How's come?

17 A. It's my version of it. I don't need  
18 to know his. It's pretty much how we look at it.  
19 You did what you did, I did what I did. I mean,  
20 everybody internalizes it different. The only  
21 question I've ever asked him about it was where  
22 was he standing because I didn't know how I didn't  
23 shoot him, but I've never discussed it with him.

24 Q. Do you still have the computer you  
25 wrote your draft on?

1 A. No, ma'am.

2 Q. What kind of computer was that?

3 A. A laptop that my kids since broke.

4 Q. Do you still have the physical broken  
5 laptop?

6 A. No, I don't have it.

7 Q. And when did you get rid of that?

8 A. Oh, that's been a while ago.

9 Sometime after the shooting. I mean, I can't tell  
10 you when. It's been a while I've had a computer.  
11 I usually have to go to the library to use a  
12 computer now.

13 Q. Did you -- do you know if any of the  
14 interviews you gave with Detective Kellar or  
15 anybody at the sheriff's office were recorded?

16 A. They did not tell us we were being  
17 recorded so whether or not we were being recorded  
18 or not, I have no idea.

19 Q. Did you record any?

20 A. No.

21 Q. Other than your first draft, did you  
22 have any handwritten notes about the shooting at  
23 any point in time?

24 A. No, ma'am.

25 Q. Did you keep a journal, diary,

1 calendar, anyplace where you would jot things down  
2 like that?

3 A. No, ma'am, not about the shooting.

4 Q. Have you gone back and looked at all  
5 of your journals or calendars, e-mails, text  
6 messages, Facebook posts, social media to see what  
7 you have that's related to the shooting?

8 A. That I posted or communicated in?

9 Q. Right.

10 A. Yeah, nothing.

11 Q. Did you go back and look is my  
12 question?

13 A. I'm sure I have since. The problem  
14 is my account was locked down. I had an incident  
15 where we played football with some kids on Fair  
16 Oaks and we were getting requests from everybody  
17 in the neighborhood over there and they found our  
18 personal accounts so I locked my name down and  
19 used false accounts -- excuse me, fake names, so I  
20 keep it pretty locked down, everything -- the  
21 restrictions and everything are set pretty strict  
22 so...

23 Q. Are you talking about Facebook?

24 A. Yeah, Facebook.

25 Q. I found you on Facebook.

1           A.     Well, I've since retired, I unlocked  
2 it.

3           Q.     Oh, I see.

4           A.     But prior to retiring I didn't.

5           Q.     So did you go back to your Facebook  
6 that was in existence from July of 2015 through  
7 now to look at all your posts and comments and  
8 messaging to look for things related to the  
9 shooting, the lawsuit, Dontae Martin?

10          A.     No, I don't think I've ever went back  
11 to even look at it.

12          Q.     Can you do that after you leave here  
13 today?

14          A.     Sure. Now, can I go back on the  
15 draft?

16          Q.     Sure.

17          A.     When we write reports in drafts and  
18 our sergeant gets them, he has us make changes.  
19 We change them. We don't have those drafts. They  
20 change on the original thing. So even the  
21 reporting system, if we have drafts prewritten,  
22 the sergeant checks off and wants changes, we  
23 don't even save those drafts. So it's not like  
24 it's a standard practice. So if I would turn in  
25 this report and the sergeant says I don't like

1 this, you need to make these changes, we'd go back  
2 and make these changes and the original paper is  
3 gone because we change the original on it so it's  
4 not like we ever keep any written drafts.

5 Q. Have you ever gone back into the  
6 computer to see where the prior version would be  
7 kept on the server?

8 MS. DINEHART: Objection.

9 THE WITNESS: I haven't been back  
10 since I left.

11 BY MS. BRANCH:

12 Q. Oh, I don't mean -- I'm sorry.  
13 During your career at the sheriff's office, have  
14 you ever tried to retrieve a prior version of an  
15 incident report that you drafted?

16 A. Yes.

17 Q. And have you ever worked with IT to  
18 see if they could retrieve it for you?

19 A. No. Are you talking about like a  
20 previous -- like a draft, rough draft? No, I've  
21 only done originals and print them off for court  
22 cases because I know the changes are actually done  
23 on the original because it's owner approved and if  
24 the sergeant unapproves it, we make the changes to  
25 the original and then a sergeant approves it

1 again.

2 BY MS. BRANCH:

3 Q. And you said the computer system  
4 would show every time the report was accessed?

5 A. Yes, ma'am.

6 Q. And by whom and when?

7 A. Yes. If it's the same reporting  
8 system. I remember in Deputy Teague's deposition  
9 they talked about changes.

10 Q. The one that was in existence in July  
11 of 2015?

12 A. Yeah. So they could have a new  
13 reporting system. I have no idea.

14 Q. And have you -- did you testify at  
15 the grand jury?

16 A. Yes, I did.

17 Q. And did you give the grand jury a  
18 copy of your incident report?

19 A. I didn't give them anything.

20 Q. And what did you tell the grand jury?

21 A. As far as basically the incident that  
22 happened. Everything that happened.

23 Q. Did you tell them anything that was  
24 not contained in your report?

25 A. No, ma'am. Not to my knowledge.

1 Q. And have you talked to anyone at the  
2 sheriff's office, other than Detective Kellar when  
3 he interviewed, asked you questions, about the  
4 incident?

5 MS. DINEHART: Objection.

6 THE WITNESS: No, nobody has asked me  
7 direct questions that I can say. Kellar did his  
8 walk-through. Maybe an E crew when he took my  
9 weapon like, hey, is this the gun; but actually  
10 about the shooting, no, not to my knowledge.

11 BY MS. BRANCH:

12 Q. Nobody from internal, no one from the  
13 sheriff's command staff asked you questions or  
14 interviewed you?

15 A. Internal included questions within  
16 the interview with Detective Kellar that they  
17 wanted answered.

18 Q. And do you know what questions  
19 internal wanted answered?

20 A. I don't remember them all. I know  
21 something was about the camera system, duty ammo,  
22 duty gun. Every single one of them I don't.

23 Q. Was somebody from internal there for  
24 the interview?

25 A. No, ma'am.

1 Q. How do you know what questions were  
2 internal questions?

3 A. Because Detective Kellar told us that  
4 internal investigations is including these  
5 questions with it.

6 Q. But nobody was there from internal?

7 A. No, ma'am.

8 Q. Do you know why they didn't show up  
9 for your interview?

10 MS. DINEHART: Objection.

11 THE WITNESS: I don't even know if  
12 they were invited. I don't know.

13 BY MS. BRANCH:

14 Q. Is that unusual?

15 MS. DINEHART: Objection.

16 THE WITNESS: No. Usually from the  
17 past experience internal doesn't even get involved  
18 until the criminal is completely done.

19 BY MS. BRANCH:

20 Q. In your other cases where you were  
21 either a witness or an officer who shot a  
22 suspect --

23 A. Yes, ma'am.

24 Q. -- did internal interview you in  
25 those cases at some point?



1           A.    I don't think I ever spoke to  
2 internal in any of my shootings. They went by the  
3 entire case, grand jury, detectives, my report. I  
4 don't remember actually speaking with internal  
5 personally.

6           Q.    Is it fair to say that the practice  
7 at Montgomery County Sheriff's Office is for the  
8 internal investigators after an officer-involved  
9 shooting to rely on the original incident report?

10           MS. DINEHART: Objection.

11           THE WITNESS: I have no idea what  
12 their practice is.

13 BY MS. BRANCH:

14           Q.    But the practice from your point of  
15 view is in the shooting of Mr. Wright, Mr. Davis,  
16 and Mr. Martin, internal did not ask you any  
17 questions?

18           A.    I'm not going to say practice, but I  
19 know I was never interviewed. I can't say that's  
20 their practice, but I know I never spoke to  
21 anybody.

22           Q.    In any of those three shootings?

23           A.    Correct.

24           Q.    Nor in the shooting where you were a  
25 witness, the Dayton police officer?

1 A. Yeah.

2 MS. DINEHART: Objection.

3 BY MS. BRANCH:

4 Q. Did internal investigate that one?

5 A. I didn't speak to nobody.

6 MS. DINEHART: Objection.

7 BY MS. BRANCH:

8 Q. Did internal investigate that one?

9 MS. DINEHART: Objection.

10 THE WITNESS: I would assume so, but  
11 I don't know how the City does their stuff.

12 BY MS. BRANCH:

13 Q. But you never talked to anybody from  
14 internal about that shooting?

15 MS. DINEHART: Objection.

16 THE WITNESS: No, but I completed a  
17 report.

18 BY MS. BRANCH:

19 Q. Did you talk to somebody from  
20 internal about the pedestrian that was killed?

21 A. No. Ohio State Highway Patrol  
22 handled that as a crash.

23 Q. Did internal do an investigation  
24 after that?

25 A. I don't believe so. I think it was

1 all kept as a motor vehicle crash.

2 Q. Did anyone in the sheriff's  
3 department review your actions related to that to  
4 see if you were in compliance with the policy?

5 MS. DINEHART: Objection.

6 THE WITNESS: I have no idea.

7 BY MS. BRANCH:

8 Q. Anybody from internal interview you  
9 in that one?

10 A. No.

11 Q. Okay. So let me ask you how you got  
12 to the scene on July 23rd, 2015.

13 MS. DINEHART: Would now be an okay  
14 time to take a break?

15 MS. BRANCH: Sure.

16 MS. DINEHART: Only because I get the  
17 sense that you're changing themes.

18 MS. BRANCH: I'm changing topics.

19 (Pause in proceedings.)

20 BY MS. BRANCH:

21 Q. In the Davis shooting and in the  
22 Wright shooting did you submit your report to the  
23 sheriff's department in seventy-two hours -- at  
24 least seventy-two hours after the shootings?

25 A. No.

1 Q. Did you report those on the same day  
2 that the shootings occurred?

3 A. The Davis shooting, yes, I was  
4 ordered to complete it that day.

5 Q. And who ordered?

6 A. Sheriff David Vore.

7 Q. Vore, V O R E?

8 A. Yes, ma'am.

9 Q. And did you submit an incident report  
10 the same shift and a use of force report?

11 A. I don't believe so.

12 Q. Just the incident report?

13 A. Yes.

14 Q. And how about the Wright shooting?

15 A. As far as? What's the question?

16 Q. Oh. Did you submit an incident  
17 report by the end of shift?

18 A. No.

19 Q. And did anyone tell you that you had  
20 permission to wait?

21 MS. DINEHART: Objection.

22 THE WITNESS: I don't recall anybody  
23 saying anything about it.

24 BY MS. BRANCH:

25 Q. When did you submit that one?

1           A.    I have no idea.   Within a week.   That  
2 week.

3           Q.    And did you submit a use of force  
4 report in Wright?

5           A.    Yes.   Eventually.   I can't tell you  
6 when exactly it was filled out.

7           Q.    And you did not submit a use of force  
8 report in the shooting of Dontae Martin; is that  
9 right?

10          A.    I don't recall if I ever did one.   I  
11 thought I did one.   It would have been much, much  
12 later, but I can't say for sure.

13          Q.    I don't have one when I've asked for  
14 all the documents so --

15          A.    Then one must not have been done.

16          Q.    Do you know why it wasn't done?

17          A.    No, ma'am.

18          Q.    Is it the practice at Montgomery  
19 County that a use of force report should be filled  
20 out by an officer in an officer-involved shooting?

21                MS. DINEHART:   Objection.

22                THE WITNESS:   Yes, it is common  
23 practice.   Obviously there is exceptions.

24 BY MS. BRANCH:

25          Q.    What are the exceptions?

1           A.     Whether or not somebody has been --  
2     like, for instance, Wright, I had no idea who that  
3     person was so you can't complete a use of force  
4     report on somebody you don't have a suspect or any  
5     information to include in there so -- in this case  
6     I can't say for sure what happened there.

7           Q.     Sitting here today, do you know if  
8     anybody told you not to fill out a use of force  
9     report on the shooting of Dontae Martin?

10          A.     Absolutely not. Nobody told me not  
11     to do it.

12          Q.     But you don't know why you didn't --

13          A.     Correct.

14          Q.     -- follow the policy?

15          A.     I don't know why one wasn't done.

16          Q.     And that should have been done by  
17     both you and Officer Teague?

18                 MS. DINEHART: Objection.

19     BY MS. BRANCH:

20          Q.     You would both be required under the  
21     policy to fill out a use of force report?

22          A.     Under the policy anybody using force  
23     has to do it so anybody on that scene would have  
24     had to do one.

25          Q.     In the Wright and Davis incidents did

1 you share a draft of your incident report with  
2 your attorney?

3 MS. DINEHART: Objection. Go ahead.

4 THE WITNESS: Davis, no, because my  
5 attorney refused to come down from Columbus that  
6 day and I was ordered to write it.

7 BY MS. BRANCH:

8 Q. And what about in Wright?

9 A. I would assume -- I believe I did  
10 because Bob Sauter was my same attorney so I would  
11 assume -- not assume. I'm sure if I would have  
12 completed a draft, he would have looked at it,  
13 checked for grammar.

14 Q. Same process you followed in the  
15 Dontae Martin incident report?

16 A. Yes, ma'am.

17 Q. Same attorney?

18 A. Yes.

19 Q. Same sheriff?

20 A. Yes.

21 Q. So the difference between Wright and  
22 Martin versus Davis is that you had a different  
23 sheriff --

24 MS. DINEHART: Objection.

25 BY MS. BRANCH:

1 Q. -- at that time?

2 MS. DINEHART: Objection.

3 THE WITNESS: Is there a question  
4 or -- yes, there was different sheriffs.

5 BY MS. BRANCH:

6 Q. Did Sheriff Vore enforce the written  
7 policy that an incident report should be written  
8 before the end of shift?

9 MS. DINEHART: Objection.

10 THE WITNESS: I have no idea who  
11 wrote the original policy for the sheriff's  
12 office.

13 BY MS. BRANCH:

14 Q. Did -- the entire time that you've  
15 been with the sheriff's office, was the written  
16 policy -- did the written policy require that you  
17 write an incident report by the end of shift --

18 MS. DINEHART: Objection.

19 BY MS. BRANCH:

20 Q. -- regardless of who the sheriff was?

21 MS. DINEHART: Objection.

22 THE WITNESS: I can't answer that  
23 because if you're talking about an incident  
24 report, we've all been trained not to write one  
25 until after seventy-two hours. That was the only



1 incident where I was required to write it.

2 BY MS. BRANCH:

3 Q. I see. And do you know why the  
4 sheriff required that you write it in the Davis  
5 incident?

6 A. No, ma'am.

7 MS. DINEHART: Objection.

8 BY MS. BRANCH:

9 Q. And the computer that you used, was  
10 that a computer that accessed the Cloud, like an  
11 Apple product, either a --

12 A. For --

13 Q. -- a Mac?

14 A. For what purpose?

15 Q. Oh. For any purpose. Did you have a  
16 Mac laptop?

17 A. No. They're desktop computers  
18 controlled by our IT department.

19 Q. Your home laptop.

20 A. No, it's -- I don't know nothing  
21 about the Cloud or anything like that.

22 Q. Do you know what kind of laptop you  
23 owned back in 2015?

24 A. At that time it was a  
25 Hewlett-Packard.

1 Q. Can you tell me how you were alerted  
2 that you needed to get to 324 Springbrook on July  
3 23rd, 2015?

4 A. Via dispatch.

5 Q. And dispatch told you that there was  
6 a maroon Grand Prix involved in a two-vehicle  
7 crash and of an unknown cause; is that right?

8 A. I believe it was a check and advise  
9 crash is how it was dispatched.

10 Q. And you knew that the person had not  
11 gotten out of the car?

12 A. Do you have the actual dispatch that  
13 I can look at? If I'm not mistaken, it was  
14 broadcasted as two vehicles, one maroon, one  
15 green, and the driver hasn't got out, but I don't  
16 want to quote exact wordage.

17 (Thereupon, Plaintiff's Exhibit 14,  
18 two colored photographs, was previously marked for  
19 purposes of identification.)

20 BY MS. BRANCH:

21 Q. How about Exhibit 14? That's your  
22 MDT terminal. I do have the dispatch if you want  
23 to look at that as well.

24 A. Let's see. Yeah, that's actually my  
25 MDT.

1 Q. That's yours?

2 A. Yes.

3 Q. And it says that there is a  
4 two-vehicle accident; vehicle one, green car,  
5 parked; vehicle two, maroon Grand Prix, tinted  
6 windows, nobody has gotten out. Did I read that  
7 correctly?

8 A. Yes.

9 Q. So that was the -- at least some of  
10 the information you had before you got to the  
11 scene?

12 A. Yes.

13 Q. And you understood what tinted  
14 windows meant, right?

15 A. Yes, ma'am.

16 Q. And you saw that when you got out of  
17 the car -- when you got to the scene, did you see  
18 the Grand Prix's windows were tinted?

19 A. I did not see until I approached the  
20 car.

21 Q. And you knew that this was a check  
22 and advise situation --

23 A. Yes, ma'am.

24 Q. -- where you were checking on the  
25 well-being of the people in the car?

1 A. Checking on the crash --

2 investigating the crash and checking to see if  
3 there were any injuries, correct.

4 Q. You weren't there to investigate a  
5 crime?

6 A. No, ma'am, we were there to  
7 investigate a motor vehicle accident.

8 Q. And if somebody was injured in the  
9 accident, you would have provided medical  
10 attention for them?

11 A. Absolutely.

12 (Thereupon, Plaintiff's Exhibit 1,  
13 incident history detail dispatch log, was  
14 previously marked for purposes of identification.)  
15 BY MS. BRANCH:

16 Q. And when you got to the scene,  
17 according to the dispatch log -- that's going to  
18 be Exhibit 1. You were Harrison 121?

19 A. Yes, ma'am.

20 Q. 45:02, the time code on the log, do  
21 you see that?

22 A. 45:02.

23 Q. 00:45.

24 A. Oh, 45:02. Yes.

25 Q. That says you were on scene at 45:02?

1 A. Yes, that's my unit number.

2 Q. And a couple lines down 45:54 Teague  
3 is on scene, he was Harrison 111?

4 A. Yes, it shows him on scene.

5 Q. All right. That puts him on scene,  
6 oh, about fifty seconds after you were on scene  
7 according to the dispatch log; is that right?

8 A. Correct, according to the log.

9 Q. And is that your memory of what  
10 happened?

11 A. No, that is not my memory at all. We  
12 arrived simultaneously.

13 Q. And how did you get on scene?

14 A. As far as?

15 Q. Did you call dispatch, did you put  
16 yourself on scene?

17 A. It looks like I put myself on scene  
18 because it has my unit number and my MDT terminal.  
19 So it has 723 and H508 I believe is my terminal so  
20 that leads me to believe I pressed my on scene  
21 button. Now, if you look at Teague's, it does not  
22 have that information.

23 Q. If you go back to Exhibit 14, is  
24 there anything on that printout that you can  
25 explain to me that is your terminal number?

1           A.     Yeah, our terminals are assigned  
2 numbers. Let's see if I can check this one. It's  
3 kind of real blurry, but if you look at the very  
4 bottom, it kind of makes it out to HR121. That  
5 shows you it's my terminal, but I'm trying to  
6 see -- do you have my initial log-in screen for  
7 the beginning of the day?

8           Q.     No, this is the only screen I was  
9 given.

10          A.     Okay.

11          Q.     I think it's a photograph somebody --

12          A.     Every terminal is assigned a number,  
13 it's H something, so that -- looking at this, that  
14 leads me to believe that is my unit number and my  
15 terminal number, H508.

16          Q.     And how would you put yourself on  
17 scene?

18          A.     I'd press a button that says on  
19 scene. If you look at the picture, 14, you see  
20 the button underneath en route, on scene. All you  
21 do is touch that screen.

22          Q.     All right. And when did you touch  
23 the screen?

24          A.     I would assume as soon as I got on  
25 scene.

1 Q. Parked?

2 A. As soon as I parked or pulling up. I  
3 could have done it pulling up. There's numerous  
4 times I do it pulling up just in case you don't  
5 know what happened so you hit your button and you  
6 don't have to worry about nothing. So I can't say  
7 exactly when I did it.

8 Q. All right. And it looks like then,  
9 if that's the way this is interpreted, that Teague  
10 did not put himself on scene himself?

11 A. I can't say that for sure, but  
12 looking on this, I can only assume dispatch did  
13 that because if you look farther down to 756,  
14 which is Deputy Haas, it also says H502. That  
15 would be her terminal number.

16 Q. She put herself en route at 47:03?

17 A. That's what it says.

18 Q. Okay. And when you got on scene,  
19 where was -- who was on the scene before you?  
20 Were there any officers?

21 A. No.

22 Q. And who got out first?

23 A. Me.

24 Q. And where was Teague?

25 A. Behind me.

1 Q. Still in his vehicle?

2 A. I have no idea. I got out and  
3 approached the vehicle.

4 Q. Did you talk to him?

5 A. No, not when we arrived on scene.

6 Q. Before you got out of your vehicle  
7 did you and Officer Teague talk about how you were  
8 going to approach the vehicles in the driveway?

9 A. When we arrived on scene? No.

10 Q. Or before you got there?

11 A. No.

12 Q. Do you call each other on the radio  
13 or communicate somehow?

14 A. No.

15 Q. When you got there and you exited  
16 your vehicle, did you see any neighbors?

17 A. I saw several subjects standing  
18 across the driveway in the yard in front of the  
19 crashed vehicles.

20 Q. Okay. And what did you -- did you  
21 interact with them at all?

22 A. No.

23 Q. Do you know which yards they were in?

24 A. The yard just directly I guess it  
25 would be east of the crash. Right across the



1 driveway from where the cars crashed.

2 Q. Did you see anybody in the street?

3 A. No.

4 Q. Did you see anybody -- or did you  
5 look for anybody in the street?

6 A. Yes.

7 Q. And if I -- at the scene you had your  
8 vehicle parked on the street parallel to the front  
9 yards?

10 A. Yes.

11 Q. Parallel to the Grand Prix?

12 A. Yes.

13 Q. So your --

14 A. Which Grand Prix? There's two of  
15 them.

16 Q. The maroon.

17 A. The maroon. Okay.

18 Q. So your headlights were not focused  
19 on the crash site; is that right?

20 A. I think the cars were a little bit  
21 off the roadway. I can't tell you if they were  
22 focused. I know I'm parallel to the street so  
23 some of the light might have caught it, some of it  
24 might not.

25 Q. Any streetlights that were helping to

1 illuminate the crash scene?

2 A. I don't believe there was street  
3 lights.

4 Q. House lights or porch lights, any of  
5 those helping to illuminate the scene?

6 A. There was porch lights.

7 Q. Did that make any difference?

8 A. I can't tell you. I don't remember.

9 Q. It was dark when you got there?

10 A. Yeah, it was dark.

11 Q. And you couldn't actually see that  
12 the windows were even tinted until you got right  
13 up close to the maroon Grand Prix?

14 A. Correct, once I made my approach.

15 Q. So tell me what your plan was when  
16 you got out of your vehicle.

17 A. To investigate a crash.

18 Q. And how were you going to do that?

19 A. Make contact with any occupants in  
20 the vehicle.

21 Q. And what was your -- how did you do  
22 that?

23 A. I never had the opportunity to make  
24 contact with them.

25 Q. What did you do when you got out of

1 your vehicle?

2 A. Immediately approached the driver's  
3 side of the vehicle, saw that the windows were  
4 tinted so I removed my flashlight from my duty  
5 belt and I illuminated the interior of the vehicle  
6 through the back window.

7 Q. Which back window?

8 A. The back rear passenger window -- the  
9 driver window. I'm sorry.

10 Q. Not the back window --

11 A. No, no.

12 Q. -- of the trunk but the --

13 A. The actual back --

14 Q. -- driver's side passenger back  
15 window?

16 A. Yes.

17 Q. Okay. What did you see?

18 A. I saw that there was nobody else in  
19 the back of the vehicle. I could also see there  
20 was nobody in the front passenger seat of the  
21 vehicle and that the driver had only one male  
22 occupant in the driver's seat.

23 Q. And when you looked through the back  
24 passenger window into the vehicle, were you  
25 looking into the backseat?

1 A. Yes.

2 Q. And you could see the driver's head?

3 A. Yes, I could see the driver's  
4 upper --

5 Q. And you could see --

6 A. -- upper body and head seated in the  
7 upright position.

8 Q. And you could see the chair -- the  
9 driver's seat reclined?

10 A. Yes.

11 Q. And you could see his head on the  
12 headrest?

13 A. Yes.

14 Q. All right. From your perspective  
15 standing at the back window, did it appear to you  
16 that he was reclined in his seat so far that his  
17 head was close to the bench in the backseat?

18 A. No, his head was resting on the seat.

19 Q. On the headrest?

20 A. On the headrest of the driver's seat.

21 Q. And you could tell right away there  
22 was nobody else inside the vehicle?

23 A. Yeah, I could see the rear seats, the  
24 bench. There was nobody hiding down there. There  
25 was nobody in the front passenger seat. There was

1 only one occupant.

2 Q. All right. And at that point what  
3 did you do when you saw that?

4 A. Walked to the driver's side window.

5 Q. Front window?

6 A. Front window. Illuminated with my  
7 flashlight, and I immediately noticed that he was  
8 holding a firearm in his right hand.

9 Q. What did you do?

10 A. I yelled gun, gun, he's holding a gun  
11 to Teague.

12 Q. What did you do?

13 A. Once I identified he was holding a  
14 gun, I drew my service weapon, pointed it at  
15 Mr. Martin, and start giving him commands to drop  
16 the gun.

17 Q. What part of Mr. Martin were you  
18 pointing at?

19 A. It would have been his head, upper  
20 body. Whatever is visible through the window.

21 Q. And then what happened?

22 A. I kept giving him commands to drop  
23 the gun. He refused to comply.

24 Q. What did he do?

25 A. He wasn't responding to me period.

1 Q. Then what happened?

2 A. He started moving the gun off his  
3 right thigh pointing it in all different  
4 directions toward the passenger front window.

5 Q. Passenger side front window?

6 A. Yes, where I believed Deputy Teague  
7 was standing.

8 Q. You thought he was standing there but  
9 you realize now that he wasn't?

10 MS. DINEHART: Objection.

11 THE WITNESS: Yeah, I found out days  
12 later that he wasn't. Correct. Not at that time.  
13 BY MS. BRANCH:

14 Q. And then what happened?

15 A. He kept moving the gun back on his  
16 thigh.

17 Q. Did he put the gun down on his thigh?

18 A. No, still in his hand and he rested  
19 it on his thigh. He was moving it all around in  
20 the front of the car (indicating).

21 Q. Okay. And when you say he rested it  
22 on his thigh, are you talking about the gun?

23 A. The gun he was holding he put on his  
24 right thigh still in his hand.

25 Q. And you were giving a command to drop

1 the gun?

2 A. Drop the gun.

3 Q. And then what happened?

4 A. Dontae Martin sit up in his seat  
5 because he was previously laying back against the  
6 headrest.

7 Q. Okay. When you say previously laying  
8 back, was he reclined in the reclined chair?

9 A. He was sitting in the driver's seat.  
10 The driver's seat, yes, was in a past ninety  
11 degrees so it was somewhat reclined with his head  
12 on the headrest when I approached him.

13 Q. Was the seat also pushed back?

14 A. I have no idea how the seat was.

15 Q. Okay.

16 A. I just know the back of the seat was  
17 past ninety degrees.

18 Q. Got it.

19 A. I described it as a Detroit lean.

20 Q. And then what happened?

21 A. He sat up. He looked to the left,  
22 looked directly at me, raised the gun up to his  
23 chest level, pointed the barrel right at me.

24 Q. Where were you?

25 A. In the driver's window still giving

1 him commands to drop the gun.

2 Q. And then what happened?

3 A. Fearing that he was about to shoot  
4 me, I discharged my weapon and then retreated --  
5 as I was firing, retreated back to the back trunk  
6 area of the car.

7 Q. Then what did you do?

8 A. Once we got -- once I got to the back  
9 of the car I started yelling for Teague does he  
10 still have the gun, does he still have the gun.  
11 Teague informed me that he couldn't tell.

12 Q. And then what happened?

13 A. I could not see in either driver's  
14 side windows because of being shattered from the  
15 gunfire so I shattered the rear passenger window  
16 first so I could see into the vehicle.

17 Q. How did you do that?

18 A. With my asp baton.

19 Q. And then what? What did you see when  
20 you shattered the window?

21 A. Saw that Mr. Martin was laying back  
22 in his seat once again and he appeared to have  
23 gunshot wounds to the left side of his body.

24 Q. Then what did you do?

25 A. I asked Teague again if he could see



1 the gun. He informed me that it's no longer in  
2 his hand but it's in his lap. He said next to the  
3 console.

4 Q. Then what?

5 A. Sergeant McLaughlin arrived on scene.  
6 I advised Sergeant McLaughlin and Teague to  
7 provide cover while I proceeded to bust out the  
8 driver's side window because the door was locked  
9 and I could not gain entry into the vehicle.

10 Q. Then what?

11 A. Once I shattered the window, I  
12 reached in, unlocked the vehicle, immediately saw  
13 the firearm and retrieved the firearm.

14 Q. Where was the firearm?

15 A. It was sitting next to his right  
16 thigh in like the -- I guess you call it central  
17 console area, it was like a little glove box  
18 thing, kind of wedged right by his right thigh  
19 (indicating).

20 Q. You were pointing down to your chair.

21 A. Yeah, it's like if you were sitting  
22 in the driver's seat, it was by his right thigh  
23 and there's a center console between the two front  
24 seats and it was kind of wedged right there.

25 Q. Was his gun when you saw it wedged

1 between his leg -- his right thigh and the  
2 console?

3 A. I don't remember. I just grabbed it.

4 Q. When you said right there, it was  
5 wedged right there, I was just trying to get that  
6 in the record what you meant.

7 A. Somewhere between his right thigh and  
8 center console.

9 Q. Okay.

10 A. I mean, whether it was his leg, by  
11 his knee, I'm not sure which way. I just know he  
12 wasn't holding it. It was between his right leg  
13 and the center console.

14 Q. And then what happened?

15 A. Once I retrieved the handgun I put  
16 it -- I told Deputy Teague and Deputy Bender who  
17 arrived on scene to remove Mr. Martin from the  
18 vehicle so we could provide first aid and I placed  
19 the handgun on the hood of my cruiser.

20 Q. And then what?

21 A. Advised Deputy Achtermann and Officer  
22 Huff from the Trotwood Police Department to watch  
23 the gun and I retrieved the AED from my cruiser.

24 Q. What did you do with the AED?

25 A. I ran back to Martin, advised

1 whatever deputy to cut his shirt off, turned it  
2 on, and started hooking up the automatic  
3 defibrillator.

4 Q. Then what happened with the  
5 defibrillator?

6 A. It went through the cycles, the  
7 prompts, and advised no shock advised, to continue  
8 CPR, which was being at that time administered by  
9 Deputy A. Haas and Bender.

10 Q. Amber Haas?

11 A. Yes, ma'am.

12 Q. No shock meant to you his heart could  
13 not be revived with the defibrillator?

14 MS. DINEHART: Objection.

15 THE WITNESS: No.

16 BY MS. BRANCH:

17 Q. What did it mean to you?

18 A. I know it works on different rhythms.  
19 What exactly those rhythms are I have no idea.

20 Q. And then what did you do?

21 A. After it advised no shock advised, I  
22 walked away.

23 Q. Where did you go?

24 A. I think I walked somewhere on  
25 Merrimac. It would have been toward the west.

1 Q. What did you do?

2 A. I cussed and screamed and yelled.

3 Q. Was anybody around you?

4 A. No.

5 Q. And how long were you there?

6 A. Five minutes maybe, if that.

7 Q. And what were you upset about?

8 A. Because I gave a guy an opportunity  
9 to drop the gun and he refused and pointed it at  
10 me and I had to shoot him and it really upset me.

11 Q. What did you do after that?

12 A. I think I was advised by Sergeant  
13 McLaughlin to sit in front of his vehicle because  
14 that's the only place there was no news media and  
15 it was the only place for us to stand.

16 Q. And how long did you stay there?

17 A. I have no idea.

18 Q. So when you went up first -- I'm  
19 going to go back and ask you some more questions.  
20 When you at first went up to the driver's side  
21 back window, do you know where Officer Teague was?

22 A. I would assume on the passenger side  
23 somewhere.

24 Q. But you didn't see him?

25 A. I have no clue.

1 Q. And did you hear his testimony in his  
2 deposition the other day?

3 A. Yes, ma'am.

4 Q. He testified that when you said he's  
5 got a gun, Teague was still back at his car. Do  
6 you remember that testimony?

7 MS. DINEHART: Objection.

8 THE WITNESS: I don't remember him  
9 exactly saying that, that he was still by the back  
10 of his car.

11 BY MS. BRANCH:

12 Q. Do you -- if that is where he said he  
13 was, do you have any reason to dispute that?

14 A. I have no clue where he was at.

15 Q. Okay. So it's up to him to say where  
16 he was?

17 A. Yeah, I have no clue where he was at.

18 Q. When you exited your vehicle and went  
19 up to Dontae Martin's car, at that point you did  
20 not wait for anyone else to come on the scene --

21 MS. DINEHART: Objection.

22 BY MS. BRANCH:

23 Q. -- any additional backup; is that  
24 right?

25 MS. DINEHART: Objection.

1 THE WITNESS: No.

2 BY MS. BRANCH:

3 Q. Did you wait --

4 A. No.

5 Q. -- for backup?

6 A. No.

7 Q. Did you do a tactical assessment of  
8 your surroundings and your environment before you  
9 approached the vehicle?

10 A. I approached the car tactical, but I  
11 also approached it going into thinking it's a  
12 crash.

13 Q. And what about your approach was  
14 tactical?

15 A. I approach on a forty-five degree  
16 angle so that way he can't see me in his mirrors  
17 that way I can clear the back of his car and then  
18 I end up right at the B pillar driver's side  
19 window like I would do any other traffic stop.  
20 It's just for officer safety reasons.

21 Q. You did not mention in your  
22 description of what happened that you identified  
23 yourself as a sheriff or deputy or police; is that  
24 right?

25 A. Yeah, I don't -- I'm not sure if I

1 did or not.

2 Q. You didn't -- you don't say in your  
3 incident report that you identified yourself; is  
4 that correct?

5 A. I don't remember if I did or if I  
6 didn't.

7 Q. And you didn't just tell us when you  
8 told us what happened that you took time to  
9 identify yourself?

10 A. Correct, I did not say that.

11 Q. So are you trained to identify  
12 yourself as a police officer when you come upon a  
13 car accident?

14 A. When the circumstance allows us to.

15 Q. And how would you do that  
16 identification?

17 A. Sheriff's department, sheriff's  
18 office.

19 Q. And you didn't have your lights on,  
20 you didn't have your siren on, so there wasn't any  
21 other indicator that an officer had arrived on the  
22 scene, right?

23 MS. DINEHART: Objection.

24 THE WITNESS: The uniform of the day.

25 BY MS. BRANCH:

1 Q. Okay. Anything else that would have  
2 indicated that you were a sheriff's officer coming  
3 up to the cars?

4 A. Marked police cars.

5 Q. Your police car was behind the Grand  
6 Prix, correct?

7 A. Correct. But it's also an indicator  
8 that the police are there.

9 (Thereupon, Plaintiff's Exhibit 59,  
10 one colored photograph, was marked for purposes of  
11 identification.)

12 BY MS. BRANCH:

13 Q. This is Exhibit 59.

14 A. Yes.

15 Q. The lighting here is artificial light  
16 brought in after the shooting, right? This big  
17 bright light was not illuminating the car at the  
18 time?

19 A. I have no idea. I wasn't here when  
20 this picture was taken.

21 Q. Okay.

22 A. Based on the picture, yes, there is  
23 artificial light.

24 Q. Okay. When you were on the scene,  
25 was your car and Teague's car and the maroon Grand



1 Prix in these locations as they are in the  
2 photograph?

3 A. Yes.

4 Q. When you were on the scene before the  
5 shooting, it was dark?

6 A. Correct.

7 Q. All right. The yellow tape wasn't  
8 there and the light on the street and the yellow  
9 markers, they weren't present?

10 A. At the time of arrival or at the time  
11 on the scene?

12 Q. At the time that you got there.

13 A. Yes, correct, that was not there.

14 Q. All right. And your vehicle as it's  
15 parked, that's the one in front?

16 A. Yes.

17 Q. And you did not have your bar lights  
18 on or any other lights; is that right?

19 MS. DINEHART: Objection.

20 THE WITNESS: Headlights.

21 BY MS. BRANCH:

22 Q. You had your headlights. Anything  
23 else?

24 A. Not to my knowledge.

25 Q. Do you see that there's some people

1 standing in the yard in front of the maroon car?

2 A. Yes.

3 Q. Okay. Was that the vicinity where  
4 you saw the neighbors in the yard?

5 A. It could have been. I just know it  
6 was in the front of the crashed vehicles on the  
7 other side of the yard. Where exactly they were  
8 standing, I have no idea.

9 Q. When you got to the maroon car, was  
10 the engine running?

11 A. I don't remember.

12 Q. Radio on? Any noise coming from the  
13 inside?

14 A. I have no clue.

15 Q. Windows up?

16 A. Yes.

17 Q. Tinted?

18 A. Yes.

19 Q. And did you see any movement inside  
20 the car when you first looked in?

21 A. No.

22 (Thereupon, Plaintiff's Exhibit 15,  
23 one colored photo, was previously marked for  
24 purposes of identification.)

25 BY MS. BRANCH:

1 Q. If you look at Exhibit 15 in the  
2 book, you see a photograph of the maroon car in  
3 the grass?

4 A. Yes.

5 Q. And do you see through the broken  
6 back driver's side window the headrest for the  
7 driver's seat?

8 A. Yes.

9 Q. It's -- the chair itself is pushed  
10 farther back than the passenger seat; is that  
11 right?

12 A. The backseat is. I'm not -- I don't  
13 know necessarily the chair. It appears the  
14 backrest is back farther --

15 Q. Okay.

16 A. -- but as far as the actual chair, I  
17 have no idea.

18 Q. You don't know about the chair's  
19 position front to back?

20 A. No.

21 Q. But the reclining, the driver's seat  
22 is reclined farther back than the passenger seat?

23 A. Based on this photo it appears, yes,  
24 it is reclined a little bit farther than the  
25 passenger seat.

1 Q. And is that how it looked to you at  
2 the time that you looked inside?

3 A. Yes, it appeared reclined.

4 Q. Do you have your statement still?  
5 Yeah. Exhibit 58. Could you look at your written  
6 statement, the first page, fourth paragraph down?  
7 The paragraph starts as soon as I illuminated the  
8 vehicle, I observed Martin. Do you see that?

9 A. Yes.

10 Q. So what you just told us was as soon  
11 as you shined your light in, the first thing you  
12 saw was Martin, his head and his chest, and he was  
13 reclined with his head on the headrest, right?

14 A. Yeah. If you go up to the paragraph  
15 before that it says I first illuminated the  
16 vehicle through the rear driver's side window and  
17 observed it was only occupied by a male driver,  
18 later identified as Dontae Martin.

19 Q. Slow down. If you want to read it  
20 out loud, you can. You've just got to slow down  
21 because the court reporter can't type that fast.

22 A. I'm sorry. But yes, if you go to the  
23 paragraph before that, I describe where I seen  
24 him.

25 MS. BRANCH: Okay. So Jillian, we

1 are concerned because you appear to be signalling  
2 your client --

3 MS. DINEHART: I'm reading from a  
4 paper.

5 MS. BRANCH: I know but you have long  
6 legs.

7 MS. DINEHART: I'll back up.

8 MS. BRANCH: That would be great.  
9 Thank you.

10 MS. DINEHART: All right. No  
11 problem.

12 BY MS. BRANCH:

13 Q. So you're welcome, because I'm going  
14 to ask you questions about your statement --

15 A. You're fine. I apologize. I forgot.  
16 That's my mistake.

17 Q. But you're welcome to read silently  
18 to yourself. So if I ask you to read a paragraph,  
19 you can just say let me read it first and go ahead  
20 and read that silently. If you want to read from  
21 it out loud to answer a question, that's fine too  
22 but just slow down.

23 So that paragraph I was reading, one,  
24 two, three, four, five, as soon as I illuminated  
25 the vehicle, so this is the second time you looked

1 in?

2 A. Yes, because if you go to the  
3 paragraph before is where I --

4 Q. That's where you write about his head  
5 on the headrest?

6 A. Yes.

7 Q. Okay. So in this paragraph you write  
8 I observed Martin who appeared, from my -- from my  
9 vantage point, to be holding a large semiautomatic  
10 handgun in his right hand. Did I read that  
11 correctly?

12 A. That's correct.

13 Q. All right. And you wrote who  
14 appeared, comma, from my vantage point, comma, to  
15 be holding a weapon. Right?

16 A. Yeah. It appeared from my vantage  
17 point, correct.

18 Q. You don't say that you saw a weapon,  
19 you say that he appeared to have a weapon from  
20 your point of view; is that right?

21 MS. DINEHART: Objection.

22 THE WITNESS: Yes.

23 BY MS. BRANCH:

24 Q. Is that right?

25 A. It says -- yes, it says who appeared,

1 from my vantage point, to be holding a large  
2 semiautomatic handgun. But then if you read  
3 further, I go on and tell how -- exactly where it  
4 was laying, how he was holding it.

5 Q. And that's when you yelled to Deputy  
6 Teague gun, gun, he's holding a gun?

7 A. Correct.

8 Q. So at that point in time what you saw  
9 when you looked inside the window appeared to you  
10 to be a gun and you alerted Teague to the gun?

11 A. Yes, when I looked through the  
12 driver's window.

13 Q. And you're not standing at the pillar  
14 anymore, you're at the front window; is that your  
15 testimony?

16 A. No. I'm at the driver's window. I'm  
17 not at the front windshield. I just stepped out  
18 past the pillar. I'm still at the driver's side  
19 window.

20 Q. I'm really specific when I say  
21 driver's side window because I think of them as  
22 being two windows. There's the front window --

23 A. That's the windshield.

24 Q. -- and the back window?

25 A. That's a windshield. That's not a

1 window. You've got the windshield, you've got the  
2 driver's window, the rear passenger window, you've  
3 got an opera window, and then you've got a back  
4 window of that car. So when I say front driver's  
5 side window, I'm meaning the driver's window, not  
6 the windshield.

7 Q. So you were standing where --

8 A. The driver's window.

9 Q. -- when it appeared to you that there  
10 was a gun and you said gun?

11 A. Driver's window.

12 Q. The driver's --

13 A. If you would like me to --

14 Q. -- front window?

15 A. Yes, driver's front window.

16 Q. I'm going to have you mark this one,  
17 make it easy.

18 A. Very good.

19 (Thereupon, Plaintiff's Exhibit 60,  
20 one colored photo, was marked for purposes of  
21 identification.)

22 BY MS. BRANCH:

23 Q. There's some Sharpies in there.

24 A. What color would you like?

25 Q. I guess black might be easiest to



1 see. This is Exhibit 60. So could you mark where  
2 you were standing, and if you want to mark on  
3 the -- well, actually point first --

4 A. Okay.

5 Q. -- where you were standing when you  
6 observed Martin who appeared from your vantage  
7 point to be holding a gun?

8 A. I can't give you an exact location  
9 because the door is open. So this is a different  
10 view from what I'm seeing, but it would be just  
11 past the pillar where the window would be, right  
12 about here (indicating).

13 Q. Can you just put it on the table so I  
14 can see where you pointed to?

15 A. This is the B pillar so obviously  
16 this door would be shut, the B pillar.

17 Q. Right.

18 A. So I would be looking right about  
19 around here (indicating).

20 Q. Okay. Can you mark on the ground  
21 where you were standing?

22 A. I can give you a presumed location,  
23 but I don't know for sure where I was standing. I  
24 just know it was just past the B pillar. I have  
25 no problem --

1 Q. Can you put a --

2 A. Somewhere in this area (indicating).

3 Q. All right. How close to the car were  
4 you?

5 A. Inches.

6 Q. So you put an X on Exhibit 60?

7 A. Yes.

8 Q. All right.

9 A. You want me to initial it?

10 Q. Yes. And the X indicates where you  
11 were standing when you saw what appeared to you  
12 from that point to be a gun?

13 A. No, X is indicating where I believe I  
14 was standing. I cannot tell you exactly where I  
15 was standing. I know I was just standing a little  
16 bit past the B pillar.

17 Q. Were you close enough to touch the  
18 window?

19 A. I was within inches of my gun barrel,  
20 so yes.

21 Q. And was your gun out at this point?

22 A. When I saw the firearm, yes, it was.  
23 My initial approach, no.

24 Q. And was your gun out and pointed at  
25 the driver's side front window?

1 A. Yes.

2 MS. DINEHART: Objection.

3 BY MS. BRANCH:

4 Q. Was your gun in your hand with your  
5 arm straight or with your arm bent?

6 A. No clue.

7 Q. I'm trying to figure out how close  
8 you were to the vehicle.

9 A. Inches.

10 Q. Inches?

11 A. I can tell you my gun barrel was  
12 within inches of that windshield.

13 Q. Did you knock on the window at any  
14 point?

15 A. No.

16 Q. Did you call out to try to speak to  
17 him before you saw what appeared to be a gun?

18 A. No. I immediately started screaming  
19 gun, gun, drop the gun.

20 Q. And when you say the B pillar, can  
21 you maybe --

22 A. This is the B pillar. This is where  
23 the two doors meet. This is -- I'll just put a B.  
24 Is that okay?

25 Q. You know what, can you put a B like

1 on the roof --

2 A. Sure.

3 Q. -- above the pillar?

4 A. This would be the B pillar  
5 (indicating).

6 Q. Okay. Got it. Thank you.

7 MS. DINEHART: Do you want him to  
8 initial that?

9 BY MS. BRANCH:

10 Q. Oh, sure. You can put your initials  
11 on it.

12 A. (Witness complies.)

13 Q. And then you heard Officer Teague say  
14 over the radio we've got one with a gun?

15 A. Yes.

16 Q. Did you hear him say that himself,  
17 like in the location, or did you hear it over the  
18 radio?

19 A. No, I heard it over the radio.

20 Q. Do you know where he was standing  
21 when he said that?

22 A. No, ma'am.

23 Q. If he was between his vehicle and the  
24 Grand Prix -- the maroon car, would that be  
25 accurate?

1 A. I have no clue --

2 MS. DINEHART: Objection.

3 THE WITNESS: -- where he was  
4 standing.

5 BY MS. BRANCH:

6 Q. He hadn't reached the rear of the car  
7 yet; is that right?

8 MS. DINEHART: Objection.

9 THE WITNESS: I have no idea where he  
10 was at.

11 BY MS. BRANCH:

12 Q. Now, at this point where you're  
13 standing seeing what appeared from that point of  
14 view to be a gun, Dontae Martin's head was still  
15 on the headrest, according to your statement?

16 A. Yes, when I first identified him, he  
17 was still on the headrest.

18 Q. Now, you made a command to Dontae  
19 Martin to drop the gun; is that right?

20 A. Yes.

21 Q. You yelled that?

22 A. Yes.

23 Q. In your police officer voice?

24 A. Yes.

25 Q. Did Officer Teague make any commands?

1 A. I have no idea.

2 Q. He said in his statement that the  
3 command he gave was he also was yelling and he  
4 said put your hands up, put your hands in the air.  
5 Do you recall him saying that on scene?

6 A. On scene? No.

7 Q. After you yelled drop the gun, were  
8 you aware that Officer Teague saw Dontae Martin  
9 put the gun in his lap, resting it on his thigh?

10 MS. DINEHART: Objection.

11 THE WITNESS: I have no clue what  
12 Deputy Teague saw.

13 BY MS. BRANCH:

14 Q. Did you see Dontae Martin put the gun  
15 on his lap or on his thigh?

16 MS. DINEHART: Objection. At what  
17 time?

18 BY MS. BRANCH:

19 Q. After you yelled drop the gun.

20 A. Yes. Once I initially said drop the  
21 gun, he started picking it up off his thigh and  
22 that's when he started moving the barrel different  
23 directions in the car, one being pointed toward  
24 the passenger window where I believed Deputy  
25 Teague was standing at that time.

1 Q. So did you yourself -- I'll leave  
2 aside what Teague saw for a moment. Did you  
3 yourself see Dontae Martin put the gun in his lap  
4 and resting it on his thigh?

5 A. Yes. I seen him put it on his thigh.  
6 I wouldn't say lap.

7 Q. And he did that after you said, for  
8 the first time, yelled drop the gun --

9 MS. DINEHART: Objection.

10 BY MS. BRANCH:

11 Q. -- is that right?

12 A. Yeah, I think that's what I answered.

13 Q. Would you consider that compliance  
14 with your first command to drop the gun?

15 A. No.

16 Q. Why not?

17 A. Because I would expect a civilian to  
18 take the gun completely out of their hand.

19 Q. What do you mean?

20 A. The gun was still in his hand so  
21 although he put it on his thigh, he didn't drop  
22 the gun. Dropping to me would be get rid of the  
23 gun, throw it on the floor, throw it on another  
24 seat. He did not do that.

25 Q. Did you -- but the only command you

1 gave was drop the gun?

2 A. Correct.

3 Q. Both of you were saying the same  
4 command, drop the gun, right?

5 MS. DINEHART: Objection.

6 THE WITNESS: I have no idea what he  
7 was saying.

8 BY MS. BRANCH:

9 Q. So you -- sitting here today after  
10 listening to his testimony, nothing reminded you  
11 about what Teague did?

12 A. I have no clue --

13 MS. DINEHART: Objection.

14 THE WITNESS: -- what Teague did on  
15 the scene.

16 BY MS. BRANCH:

17 Q. Everything I want to know about  
18 Teague is from Teague?

19 A. Correct.

20 Q. Okay. So you don't know if there  
21 were inconsistent commands being given?

22 A. No. I know the commands I was giving  
23 was drop the gun.

24 Q. You ever been in that situation where  
25 your fellow officer is giving a command, you're



1 giving a command, and you realize, wait a minute,  
2 our commands are inconsistent and the suspect  
3 doesn't know what to do?

4 MS. DINEHART: Objection.

5 THE WITNESS: Have I been in a  
6 situation where multiple commands were given?  
7 Yes.

8 BY MS. BRANCH:

9 Q. Yes.

10 A. Whether the suspect didn't know what  
11 to do, I have no clue. That's up to the suspect.

12 Q. Well, my question is, multiple  
13 commands that are given that are inconsistent.

14 A. No. Usually --

15 MS. DINEHART: Objection.

16 THE WITNESS: -- put your hands up,  
17 drop the gun, get rid of the gun. No matter what  
18 you tell them, it's all the same thing. There's  
19 only one objective, get rid of the gun so -- but  
20 to answer your question, no, I've never been in  
21 that situation.

22 BY MS. BRANCH:

23 Q. Have you ever been trained to avoid  
24 multiple commands or inconsistent commands?

25 A. Yes, when the situation allows us to,

1 via felony stop where it can be controlled.

2 Q. And in those situations one officer  
3 is in charge of giving commands only?

4 A. Yes, in a controlled environment.

5 Q. Okay. But that didn't occur here?  
6 You and Teague didn't have a conversation I'm the  
7 one giving commands, let me do this?

8 A. No, this was not a controlled  
9 environment.

10 Q. Now, you said that after you gave the  
11 first command to drop the gun you then saw Dontae  
12 Martin raise his hands to his chest?

13 A. No. When I first started giving the  
14 command to drop the gun, he picked the gun up off  
15 his thigh and started pointing it in different  
16 directions.

17 Q. And you eventually saw him move his  
18 hand up with the gun in it to his chest?

19 A. After he sit up in his seat, correct.

20 Q. Okay. Is it possible that he was  
21 raising his hand in compliance with one of  
22 Teague's commands?

23 A. No.

24 MS. DINEHART: Objection.

25 BY MS. BRANCH:

1 Q. You said you didn't hear Teague's  
2 commands?

3 A. Correct, because when he sit up, he  
4 looked me square in my face so that leads me to  
5 believe he wasn't listening to Teague, he was  
6 worrying about me so...

7 Q. So if Teague was saying put your  
8 hands up and Dontae Martin raised his hand up to  
9 his chest, would that be in compliance with a  
10 command?

11 MS. DINEHART: Objection.

12 BY MS. BRANCH:

13 Q. Teague's command, not your command.

14 A. I have no idea what Mr. Martin was  
15 thinking that night.

16 Q. At times while you were beside the  
17 vehicle giving commands did you believe that  
18 Dontae Martin was complying with some of your  
19 commands?

20 A. No, ma'am.

21 Q. Or some of Officer Teague's commands?

22 MS. DINEHART: Objection.

23 THE WITNESS: I didn't hear Officer  
24 Teague give commands. I just know he was not  
25 responding to mine.

1 BY MS. BRANCH:

2 Q. Even though the gun was put on his  
3 thigh?

4 MS. DINEHART: Objection.

5 THE WITNESS: Correct.

6 BY MS. BRANCH:

7 Q. Did you have any indication that  
8 Dontae Martin was intoxicated at the time that you  
9 were on the scene before the shooting?

10 A. No, ma'am. I had no contact with him  
11 period.

12 Q. And if he had been intoxicated, is  
13 that something that you would have taken into  
14 account when giving a command?

15 A. No.

16 Q. Or assessing a person's response to  
17 your command?

18 A. No.

19 Q. Are you trained to do that?

20 A. It depends on the situation.

21 Q. Have you ever had a situation where  
22 you gave a command and you were aware that the  
23 person was incapacitated or intoxicated?

24 A. Absolutely but --

25 Q. And do you take that into

1 consideration when you are considering whether  
2 they were in compliance with your command or not?

3 A. No. The whole situation is  
4 different.

5 Q. What do you mean?

6 A. This situation he was holding a gun  
7 so whether he's intoxicated or not that night  
8 would have no bearings on this night.

9 Q. Have you ever been in a situation  
10 where somebody was intoxicated and couldn't comply  
11 with your commands?

12 A. Yeah. DUI investigations.

13 Q. And what do you do in those  
14 situations?

15 A. Appropriate situations, refusal and  
16 continue my DUI investigation. The difference is  
17 this guy was holding a firearm.

18 Q. So in a DUI where you're giving a  
19 command to do a field sobriety test, for  
20 example --

21 A. Uh-huh.

22 Q. -- and they're not complying with  
23 your command, is that something that you take as  
24 failure to comply or an indicator of intoxication?

25 MS. DINEHART: Objection.

1 THE WITNESS: It could be an  
2 indication of their intoxicated state. It could  
3 be. But like I said, in this situation, I had no  
4 contact with him or knowledge whether or not he  
5 was intoxicated.

6 BY MS. BRANCH:

7 Q. Did you consider that he may have  
8 been injured from the car accident?

9 A. I guess possibly.

10 Q. Did you consider he may have had a  
11 medical condition that caused the car accident?

12 A. Anything is possible.

13 Q. And were those things that you took  
14 into account when you were giving your commands  
15 and assessing his response to your commands?

16 A. No.

17 Q. According to the internal  
18 investigation, from the moment that you radioed we  
19 have one with a gun -- let me back up. Do you  
20 remember saying that on the radio?

21 A. I didn't say that. Teague did.

22 Q. Okay. From the moment Teague said we  
23 have one with a gun to dispatch, fourteen seconds  
24 elapsed from that moment until you radioed shots  
25 fired.

1 MS. DINEHART: Objection.

2 THE WITNESS: Okay.

3 BY MS. BRANCH:

4 Q. Did you know that internal figured  
5 out that that was fourteen seconds?

6 A. No, not until I think you said it in  
7 Teague's deposition.

8 Q. Okay. Do you have any reason to  
9 dispute that time frame?

10 A. I have no clue how long it took. I  
11 mean, it could have took one second, it could have  
12 took two minutes. I have no idea.

13 Q. All right. I played the audio of the  
14 dispatch for Officer Teague during his deposition.  
15 You were present for that?

16 A. Yes, ma'am.

17 Q. I'm not going to do that for you as  
18 well, but when we looked at the time codes for  
19 when he said we have got one with a gun and when  
20 you said shots fired, that was fourteen seconds;  
21 is that right?

22 MS. DINEHART: Objection.

23 THE WITNESS: Sure. I believe -- I  
24 know it was short but I don't remember exactly  
25 what the number was without looking.

1 BY MS. BRANCH:

2 Q. Would you agree that the entire  
3 incident from when the first moment it appeared to  
4 you that Dontae Martin had a gun until both of you  
5 stopped firing was fourteen seconds?

6 A. No.

7 MS. DINEHART: Objection.

8 THE WITNESS: I wouldn't agree to  
9 that at all.

10 BY MS. BRANCH:

11 Q. What time would you give it?

12 A. I wouldn't give it a time. I would  
13 just say it was fast. I have no clue how long it  
14 took.

15 Q. Shorter than fourteen seconds?

16 A. No clue.

17 Q. But in your mind, in your memory, it  
18 was quick?

19 A. It was quick.

20 Q. When you were aiming your weapon at  
21 Dontae Martin standing at the driver's side  
22 window, looking at Exhibit 60, you were to the  
23 left of the B pillar?

24 A. That's correct, when you're facing  
25 the car.



1 Q. When you were standing there  
2 observing Dontae Martin, did you have your firearm  
3 aimed at him or anything in the car?

4 A. At him.

5 Q. All right. And what part of him were  
6 you aiming at?

7 A. His upper body, head. Whatever I  
8 could see through the window.

9 Q. And you were seeing that through the  
10 front window, the front driver's side window?

11 A. Correct.

12 Q. And is that when you fired or did you  
13 wait before you fired?

14 A. No, I already answered that, I fired  
15 after he sat up, looked at me, raised the gun and  
16 pointed it right at me is when I fired.

17 Q. And you said that you -- well, do you  
18 know how many shots you fired from that position?

19 MS. DINEHART: Objection.

20 THE WITNESS: No.

21 BY MS. BRANCH:

22 Q. Where you have the X, is that where  
23 you were standing when you fired your first shot?

24 A. That area, yes, that's where I fired.  
25 Somewhere in that area.

1 Q. And do you know how many shots you  
2 fired from the X position?

3 A. No, ma'am.

4 Q. What was your next position that you  
5 were in when you were firing?

6 A. I wasn't in a position. I was  
7 retreating straight back to the trunk as I was  
8 firing.

9 Q. And where did you -- where were you  
10 standing when you fired your last shot?

11 A. I have no idea.

12 Q. Are you aware that one of your  
13 bullets struck the door -- the back driver's side  
14 door?

15 A. No.

16 (Thereupon, Plaintiff's Exhibit 56,  
17 one colored photograph, was previously marked for  
18 purposes of identification.)

19 BY MS. BRANCH:

20 Q. I think I have a picture, Exhibit 56  
21 in the book. Do you see where the bullet hole is  
22 in the window frame?

23 A. Yes.

24 Q. And that's the back door window  
25 frame?

1           A.    I would assume so.  You can see a B  
2 pillar here (indicating).  Yeah, I believe so but  
3 I can't tell for sure.

4           Q.    And you see the headrest --

5           A.    Yes.

6           Q.    -- through the window?

7           A.    Yes.

8           Q.    Were you aware at the time that you  
9 struck the door?

10          A.    I have no idea where my rounds went.

11          Q.    Do you know where you were standing  
12 when you fired that shot?

13          A.    No clue.

14          Q.    In looking back at Exhibit 60, you  
15 have no idea where you were standing when you were  
16 done shooting?

17          A.    No.  I know I ended at the trunk.  
18 Where I stopped firing my last round, I have no  
19 clue.

20          Q.    From your position at the X spot on  
21 Exhibit 60, would you -- do you know what part of  
22 the body you struck?

23                   MS. DINEHART:  Objection.

24                   THE WITNESS:  No, ma'am.

25                   BY MS. BRANCH:

1 Q. What direction do you think your shot  
2 would have entered the body?

3 MS. DINEHART: Objection.

4 THE WITNESS: I don't even know if my  
5 rounds hit him. I have no idea.

6 BY MS. BRANCH:

7 Q. Have you looked at any of the  
8 forensic evidence from the coroner's office?

9 A. No.

10 Q. Are you aware there were no shots  
11 from front to back?

12 A. I'm not aware of anything.

13 Q. Okay.

14 A. I've never looked at it. I have no  
15 clue where the rounds went.

16 Q. Would you agree it would be  
17 impossible for you to be standing in the X  
18 position when shooting Dontae Martin's head, neck,  
19 or face?

20 A. I wouldn't agree --

21 MS. DINEHART: Objection.

22 THE WITNESS: -- to nothing.

23 BY MS. BRANCH:

24 Q. Without -- oh, let me ask it this  
25 way. Would you agree that if you were standing in

1 the X position and hit Dontae Martin's upper body  
2 or head, that the shot would have to be in the  
3 direction of front to back?

4 MS. DINEHART: Objection.

5 THE WITNESS: Like I said, I'm not  
6 going to agree to nothing. I have not read it,  
7 I've not seen it, nor do I even know how many  
8 rounds I even fired.

9 BY MS. BRANCH:

10 Q. Did you see any of your bullets  
11 strike Dontae Martin?

12 A. No.

13 MS. DINEHART: Objection.

14 BY MS. BRANCH:

15 Q. How were you holding your weapon when  
16 you shot him?

17 A. One-handed, in my right hand canted a  
18 little bit inward (indicating).

19 Q. What's that mean?

20 A. A little bit inward. We shoot  
21 one-handed, that's how I train myself. It takes  
22 out the recoil. So I cant inward a little bit to  
23 help with the recoil. That's how I trained for  
24 seventeen years when I shoot one-handed. So I was  
25 shooting one-handed with my right hand.

1 Q. All right. So I need to put this on  
2 the record so I'm going to use some words to try  
3 to describe what you just mimicked for me.

4 A. Okay.

5 Q. So if you were holding the gun in a  
6 way that was up and down, not canted --

7 A. Correct.

8 Q. -- what word would you use to  
9 describe that?

10 A. Up and down is fine.

11 Q. All right. That would mean that the  
12 grip was perpendicular to the ground?

13 A. Sure.

14 Q. All right. And when you cant the  
15 gun, the grip is now at an angle toward the  
16 ground?

17 A. Yes.

18 Q. And it's tilted -- the gun is tilted,  
19 the way you described it to me --

20 A. Inward.

21 Q. -- where the top of the weapon is  
22 tilted to your left?

23 A. Correct.

24 Q. And the bottom of the grip is tilted  
25 out to the right?

1 A. Correct.

2 Q. All right. And if that's the way you  
3 were holding your gun when you shot Dontae Martin,  
4 where would you expect your casings to eject?

5 A. I have no idea --

6 MS. DINEHART: Objection.

7 THE WITNESS: -- because I was  
8 shooting and moving.

9 BY MS. BRANCH:

10 Q. Because you were shooting and moving?

11 A. Yes.

12 Q. If you were shooting from a  
13 stationary position, where would you expect your  
14 casings to be?

15 A. It depends on guns. I mean, every  
16 gun is different.

17 Q. Oh, I'm asking about your gun.

18 A. I don't know. I've never sat and  
19 watched my casings because we're actually doing  
20 drills.

21 Q. Do you know what the typical ejection  
22 pattern is for your Glock when you're firing it at  
23 a cant from left to right?

24 A. No.

25 MS. DINEHART: Objection.

1 BY MS. BRANCH:

2 Q. Do you know if anybody asked you to  
3 demonstrate that for them as part of the  
4 investigation?

5 A. No.

6 Q. Do you know how many shots you fired  
7 through the back driver's side window?

8 A. I don't know how many shots I fired  
9 period.

10 Q. Do you know if you fired shots  
11 through that window?

12 A. I have no clue. I don't know if they  
13 were mine or Teague's.

14 Q. And why were you moving back?

15 A. To safety.

16 Q. Why is that more safe?

17 A. Because I'm putting distance from the  
18 known threat.

19 Q. Anything else?

20 A. No.

21 Q. Did you consider at any point to go  
22 to safety before you shot?

23 A. Absolutely not.

24 Q. Did you consider before you shot  
25 Dontae Martin to wait for backup before you shot



1 him?

2 MS. DINEHART: Objection.

3 THE WITNESS: No.

4 BY MS. BRANCH:

5 Q. Did you consider before you shot  
6 Dontae Martin to take cover?

7 A. No.

8 Q. Did you alert dispatch that shots  
9 were fired multiple times?

10 A. Twice.

11 Q. And why did you repeat yourself?

12 A. Because I was walked on by another  
13 deputy and I wanted to make sure dispatch was  
14 clear that shots were fired and that a medic was  
15 en route.

16 Q. And is it your voice the second time  
17 where you say to dispatch we just shot the  
18 suspect, start the medic?

19 A. Yes.

20 Q. After you retreated to the back of  
21 the vehicle and then came toward the driver's side  
22 windows, at that point were you the first one to  
23 come back to the car between you and Teague?

24 A. I have no idea.

25 MS. DINEHART: Objection.

1 THE WITNESS: No clue.

2 BY MS. BRANCH:

3 Q. And were both windows -- was the  
4 window that you broke first the back driver's side  
5 window?

6 A. Yes, back driver's side window.

7 Q. And why did you break that?

8 A. So I could see into the car.

9 Q. Did you unlock the car at that point?

10 MS. DINEHART: Objection.

11 THE WITNESS: No. I busted that  
12 window out and then I think I realized it was  
13 locked, that's why I couldn't get into the front  
14 of the vehicle.

15 BY MS. BRANCH:

16 Q. Did you ask Teague to break out his  
17 window?

18 A. No.

19 Q. Did you realize at that point that  
20 the bullet holes through the driver's side windows  
21 were evidence of shooting?

22 A. I'm sure, yeah, that's evidence.

23 Q. And that when you used your asp to  
24 break the window out, you were destroying the  
25 evidence of where the holes were in the window?

1 MS. DINEHART: Objection.

2 THE WITNESS: Those windows weren't  
3 my concern.

4 BY MS. BRANCH:

5 Q. Well, were you aware that you were  
6 destroying evidence when you were using your asp  
7 to break the windows?

8 A. Absolutely, but that wasn't my  
9 concern at the time.

10 Q. And then Teague said to you -- or do  
11 you remember Teague saying to you that the gun was  
12 on the seat right next to his leg?

13 A. Yes.

14 Q. And that the gun was no longer in his  
15 hand?

16 A. Yes, because I asked him is he still  
17 holding the gun.

18 Q. And you removed the gun from the  
19 vehicle before Dontae Martin was removed from the  
20 vehicle; is that right?

21 A. I did.

22 Q. And was that your decision?

23 A. Yes, it was.

24 Q. And why did you make that decision?

25 A. To make sure that the scene is safe

1 and nobody else is put in harm's way.

2 Q. Was Dontae Martin moving?

3 A. I don't remember. I just grabbed the  
4 gun.

5 MS. BRANCH: I'm going to take a  
6 five-minute break. You're welcome to stay. I  
7 just want to read through my notes.

8 THE WITNESS: Yes, ma'am.

9 (Pause in proceedings.)

10 BY MS. BRANCH:

11 Q. You said that Deputy Bender was on  
12 the scene with Teague and the both of them removed  
13 Dontae Martin from the vehicle; is that right?

14 A. Yes, ma'am.

15 Q. And you said that you told them to do  
16 that?

17 A. I did.

18 Q. Were you the officer in charge?

19 A. No, ma'am.

20 Q. So why were you giving directions to  
21 the other officers?

22 A. Because I know we needed to  
23 administer first aid to Dontae as soon as  
24 possible.

25 Q. What were they doing at the time you

1 gave them the direction to remove him?

2 A. I don't know. I just told him to get  
3 him out of the vehicle, I'm going to get the AED.

4 Q. So before you went to get the AED,  
5 you reached into the car, you took the gun out,  
6 you then walked back to the front of your car and  
7 put the gun on the hood; is that right?

8 A. Yes. I'm not sure I walked, but,  
9 yes, I removed the gun and put it on my hood.

10 Q. And while you were doing that Dontae  
11 Martin was still inside his vehicle?

12 A. Correct.

13 Q. And then Deputy Bender arrived on the  
14 scene?

15 A. Yes.

16 Q. And when he arrived on scene, you  
17 asked he and Teague to remove Dontae?

18 A. I did.

19 Q. Why didn't you remove Dontae Martin?

20 A. Because I had the firearm.

21 Q. Why didn't you remove him before the  
22 firearm was retrieved?

23 A. Because the scene wouldn't be safe.

24 Q. Well, if you removed Dontae Martin  
25 from the vehicle --

1 A. Right.

2 Q. -- he wouldn't be near the gun?

3 A. The gun was still on his -- right by  
4 his leg. I didn't know if he was deceased, what  
5 his condition is. I didn't want another shootout  
6 so the gun is the threat, that's what I removed.

7 Q. And why was it -- why did you decide  
8 you should be the one to retrieve the gun?

9 A. I just did.

10 Q. Well, you were the one that shot  
11 Dontae Martin and you were closest to -- if you  
12 were worried that the gun was unsafe, you were the  
13 closest to him, right?

14 A. I'm the one that shot --

15 MS. DINEHART: Objection.

16 THE WITNESS: -- at Dontae Martin. I  
17 don't know if I shot him.

18 BY MS. BRANCH:

19 Q. You saw that he was bleeding?

20 A. I don't know if it's from my wounds  
21 or --

22 Q. You saw that he --

23 A. -- Teague's wounds.

24 Q. -- had gunshot wounds?

25 A. Correct.

1 Q. And you knew he was bleeding from the  
2 gunshot wounds?

3 A. Correct.

4 Q. And you knew that you would have to  
5 reach over him in order to retrieve the gun,  
6 right?

7 A. Yes.

8 Q. If Officer Teague opened the door, he  
9 wouldn't have needed to reach over Dontae Martin,  
10 correct, from the passenger side?

11 A. I guess. Sure.

12 Q. Wouldn't it have been safer for  
13 officer safety to have Officer Teague retrieve the  
14 gun from his side without having to reach over  
15 Dontae Martin?

16 MS. DINEHART: Objection.

17 THE WITNESS: My opinion is no.  
18 Who's going to provide cover for Teague? Teague  
19 is already in position and Shamus is already in  
20 position, they can provide cover for me. You  
21 would have to have people moving around in order  
22 to be able to do that and redoing positions.

23 BY MS. BRANCH:

24 Q. Why couldn't you provide cover for  
25 Teague?

1           A.     Because I would have had to left that  
2 side of the vehicle, go all the way around to that  
3 side to be able -- go around Shamus to be able to  
4 cover. And then it's also a situation, we didn't  
5 think about it, we just did it.

6           Q.     Why can't you provide cover where you  
7 were standing at the side -- the driver's side?

8           A.     I feel that you couldn't provide  
9 cover.

10          Q.     So when you say Shamus, you mean  
11 Sergeant McLaughlin?

12          A.     I'm sorry, Sergeant McLaughlin.

13          Q.     And your statement doesn't mention  
14 Sergeant McLaughlin on scene; is that right?

15          A.     Let me look at it.

16          Q.     Exhibit 58, the incident report.

17          A.     Yes, it does. Second page, the back,  
18 second paragraph I say Sergeant McLaughlin arrives  
19 on scene.

20          Q.     You say in your statement that he  
21 arrived on scene before you broke out the window  
22 or after?

23          A.     I think I was knocking out the rear  
24 window as he showed up.

25          Q.     The first -- the first window?



1 A. Yes.

2 MS. DINEHART: I'm sorry, that was  
3 first in time, not first in position is what you  
4 meant when you said first window?

5 BY MS. BRANCH:

6 Q. The first window that you broke out?

7 A. Yes.

8 Q. After you retrieved the AED where did  
9 you go?

10 A. Straight back to Mr. Martin who was  
11 lying on the ground.

12 Q. And who was the officer that assisted  
13 you with hooking up the AED?

14 A. I have no idea who -- somebody hooked  
15 up the pads. I plugged the pads in, went through  
16 the prompt, and ran the AED, but I have no idea  
17 who actually put the pads on his chest.

18 Q. Was it Amber Haas?

19 MS. DINEHART: Objection.

20 THE WITNESS: No clue.

21 BY MS. BRANCH:

22 Q. Do you know when she arrived?

23 A. Yeah. It was shortly after I  
24 retrieved the AED.

25 Q. At any point did you provide CPR?

1 A. No.

2 Q. Rescue breathing?

3 A. No.

4 Q. At any point was Dontae Martin  
5 conscious after the shooting?

6 A. Not -- no, he was not responding  
7 period.

8 Q. Did he say anything?

9 A. No.

10 Q. Did he make any sounds?

11 A. No.

12 Q. Did he move at all?

13 A. Not to my knowledge, no.

14 Q. Was he breathing?

15 A. He was breathing, yes.

16 Q. When you left him, was he still  
17 breathing?

18 A. When I left the AED, I have no idea  
19 because they were doing rescue breathing.

20 Q. And who was doing the rescue  
21 breathing?

22 A. Bender, and Amber Haas was doing  
23 compressions.

24 Q. You knew that the Grand Prix had --  
25 I'm sorry, the maroon Grand Prix had tinted

1 windows before you arrived, right --

2 MS. DINEHART: Objection.

3 BY MS. BRANCH:

4 Q. -- according to your MDT?

5 A. Based on dispatch, correct.

6 Q. And you could see them when you got  
7 to the car with your flashlight; is that right?

8 A. Yes, ma'am.

9 Q. And you had to use your flashlight to  
10 pierce the tint to see inside of the car, to light  
11 it up?

12 A. Yes, I used it to light the car up.

13 Q. Without your flashlight, you would  
14 not have been able to see inside the car?

15 A. I have no idea. I just used my  
16 flashlight. I just knew they were tinted. I  
17 couldn't -- I just used my flashlight.

18 Q. Before you turned your flashlight on,  
19 could you see inside?

20 A. I don't believe so. I can't say for  
21 sure.

22 Q. Have you ever experienced coming upon  
23 a car with tinted windows in a low light situation  
24 before?

25 A. Yes, at nighttime.

1 Q. And had you ever used your flashlight  
2 to shine inside a tinted window at night?

3 A. Yes.

4 Q. And in your experience had you ever  
5 seen a reflection from the tinted window --

6 A. Not at nighttime.

7 Q. -- when using a flashlight?

8 A. Not at nighttime.

9 Q. Do you know of any officer that  
10 you've worked with who had experience seeing a  
11 reflection in a tinted window with a flashlight at  
12 night?

13 A. I have no idea.

14 Q. You said not at nighttime. What did  
15 you mean by that?

16 A. During the daytime I have where it's  
17 been brighter outside, you can see your reflection  
18 in the tinted windows.

19 Q. All right. And how do you avoid  
20 that, seeing a reflection?

21 A. Usually you can roll down your  
22 window.

23 Q. Is there another way to minimize the  
24 reflection?

25 A. Usually people has already got their

1 windows rolled down when you make normal traffic  
2 stops.

3 Q. Have you ever moved your position  
4 when you're looking through a tinted window to  
5 minimize the reflection?

6 A. No. I approach all vehicles the  
7 same.

8 Q. Have you ever been trained to  
9 recognize that you're seeing a reflection in a  
10 tinted window in a low light situation?

11 A. No, ma'am.

12 Q. Have you ever been trained on how to  
13 avoid seeing a reflection with a flashlight in a  
14 tinted window in a low light situation?

15 A. No, ma'am.

16 Q. Sergeant McLaughlin told me that that  
17 is something that he's experienced, seeing a  
18 reflection of his flashlight in a tinted window.  
19 Are you -- have you two ever discussed that?

20 A. No.

21 Q. He was your supervisor when you were  
22 in Harrison Township?

23 A. Yes. At that time, yes.

24 Q. Do you have any reason to dispute  
25 that other officers have seen a reflection in a

1 tinted window with their flashlight in a low light  
2 situation?

3 A. No.

4 Q. Is this the first time you ever heard  
5 about that?

6 A. No, I heard about it in Teague's  
7 deposition.

8 Q. Do you know who was providing CPR to  
9 Dontae Martin other than Amber Haas --

10 MS. DINEHART: Objection.

11 BY MS. BRANCH:

12 Q. -- and the EMTs?

13 MS. DINEHART: Objection.

14 THE WITNESS: No. All I saw was  
15 Bender and Amber Haas.

16 BY MS. BRANCH:

17 Q. Do you know if anyone was providing  
18 CPR to Dontae Martin before Amber arrived?

19 MS. DINEHART: Objection.

20 THE WITNESS: No, I think everybody  
21 pretty much arrived simultaneously once we got him  
22 out of the car.

23 BY MS. BRANCH:

24 Q. Who arrived simultaneously?

25 A. I think Bender -- McLaughlin arrived,

1 Bender arrived, Amber arrived. Pretty quickly, I  
2 don't know how fast they initiated it prior to  
3 removing him -- you know, once they removed him  
4 from the vehicle. I can't tell you when it  
5 stopped. I just know those two were doing rescue  
6 breaths and CPR.

7 Q. Were you at the scene when the EMTs  
8 arrived?

9 A. Yes.

10 Q. Had you left to go to Merrimac yet or  
11 was that --

12 A. I have no idea when they removed him  
13 because there was difficulty getting the ambulance  
14 in there.

15 Q. Oh. When you draw your firearm at  
16 the scene, as you were taking your weapon out of  
17 your holster, where was your trigger finger?

18 A. We train to index, it's called  
19 indexing, which goes -- runs parallel with the  
20 slide and your finger is on the slide off the  
21 trigger.

22 Q. And how are you holding your index  
23 finger when you withdrew your weapon?

24 A. When I drew it?

25 Q. Yes.

1 A. Not on the trigger.

2 Q. When did you put your finger on the  
3 trigger?

4 A. Once I identified the threat and the  
5 gun.

6 Q. Well, you -- when you pulled your  
7 weapon and had your finger on the side of the  
8 trigger --

9 A. Uh-huh.

10 Q. -- at that point you hadn't  
11 determined there was a threat yet?

12 A. No, I determined there was a threat,  
13 but I'm not going to put my finger on a trigger  
14 until it's pointed at somebody and the direction  
15 I'm going to use it. That prevents accidents.

16 Q. I'm not sure I understand.

17 A. What don't you understand?

18 Q. I thought you saw the threat when you  
19 pulled your weapon?

20 A. Absolutely.

21 Q. So you had your finger on the  
22 trigger --

23 A. No, I did not.

24 Q. -- when you pulled your weapon?

25 A. No, I did not. I had my finger on



1 the slide. Once I raised it up and pointed at  
2 Dontae Martin, then I put my finger on the  
3 trigger.

4 Q. When you pulled your gun, did you  
5 immediately pull it up and point it at Dontae  
6 Martin?

7 A. Absolutely.

8 Q. Would you agree that if Dontae --  
9 given all the facts that you've told us here today  
10 and what's in your statement, if Dontae Martin had  
11 not raised the gun and you perceived that he was a  
12 threat with the gun, that you couldn't have shot  
13 him under your use of force policy?

14 MS. DINEHART: Objection.

15 THE WITNESS: You're asking two  
16 different things. You're asking did I perceive it  
17 as a threat with a gun or he didn't raise the gun?  
18 That's two different scenarios. So what are you  
19 asking me?

20 BY MS. BRANCH:

21 Q. Could you use deadly force on Dontae  
22 Martin if he -- if you came up across him in his  
23 vehicle and he had the gun on his lap or on his  
24 thigh?

25 MS. DINEHART: Objection.

1 THE WITNESS: I can't answer that.  
2 You've got to have background information. What  
3 happens after that?

4 BY MS. BRANCH:

5 Q. Everything you --

6 A. If you're asking would I shoot him  
7 because he's got a gun on his thigh, no.

8 Q. Why not?

9 A. He's not -- he's not threatening his  
10 life. He's not threatening nobody else's life.  
11 Now, if you put more information on that and said  
12 that he's already threatened to kill the people in  
13 front of him and he makes a motion toward it,  
14 yeah.

15 Q. Well, I'm talking about the facts  
16 that you knew that night.

17 A. Yes.

18 Q. If we took away the fact that you  
19 perceived that Dontae Martin was going to shoot  
20 you or Officer Teague, would you have had  
21 justification for shooting him?

22 A. I'm not going to answer.

23 MS. DINEHART: Objection.

24 THE WITNESS: I'm not going to answer  
25 that. I'm not taking away the fact. The fact is

1 this is what happened. I'm not going to sit here  
2 and say try to take facts away, so no, I'm not  
3 going to answer that.

4 BY MS. BRANCH:

5 Q. So is your training as an officer  
6 when you're using force -- using deadly force --

7 A. Yes, ma'am.

8 Q. -- are you allowed to shoot a suspect  
9 when you see a gun inside a vehicle and the person  
10 is not following your command to drop the gun? Is  
11 that enough to use deadly force?

12 MS. DINEHART: Objection.

13 THE WITNESS: It's up to the  
14 individual officers. Are you asking me what I  
15 would do? Was the gun in his hand? Has he  
16 already threatened to shoot somebody? Has he  
17 already threatened to shoot himself? You can't  
18 just sit here and speculate on that. It doesn't  
19 work. That ain't how it works. I mean, it's not  
20 illegal to have a gun in the car --

21 BY MS. BRANCH:

22 Q. Right.

23 A. -- so I'm not going to shoot somebody  
24 that has it on the scene. But the fact of the  
25 matter is, he was holding it, he pointed it at me,

1 and those are the facts. We could take -- we're  
2 not going to sit here and try to take away the  
3 facts.

4 Q. So let me take it one at a time.

5 A. Yes, ma'am.

6 Q. You perceive everything you've said  
7 up until the point and you saw -- up until the  
8 point you saw the gun?

9 A. Correct.

10 Q. When you first saw the gun, was  
11 that -- would that justify a reasonable officer  
12 shooting Dontae Martin?

13 MS. DINEHART: Objection.

14 THE WITNESS: I'm not going to answer  
15 that. I'm going to answer it at that point would  
16 I have shot him? No. I would have continued to  
17 give him commands --

18 BY MS. BRANCH:

19 Q. And why would you not have shot him?

20 A. -- to drop the gun. Because at that  
21 point I've already been -- gotten myself in a  
22 tactical position, I'm already armed, I'm giving  
23 him the opportunity to drop the weapon.

24 Q. And is it your testimony that another  
25 officer could have shot him?

1           A.     No, I'm not testifying to that at  
2 all.

3                   MS. DINEHART:   Objection.

4                   THE WITNESS:   That's your words, not  
5 mine.

6 BY MS. BRANCH:

7           Q.     I thought you said I wouldn't have  
8 shot him.

9           A.     Yeah. I can only testify to what I  
10 would do. I'm not going to testify what another  
11 officer would do.

12           Q.     And what justified your being able to  
13 shoot him, in your mind, was the threat that you  
14 thought he was creating to your safety and Officer  
15 Teague's safety, is that what made it justifiable  
16 to shoot him --

17           A.     No.

18           Q.     -- in your mind?

19                   MS. DINEHART:   Objection.

20                   THE WITNESS:   My mind what justified  
21 it is he didn't drop the gun, he sat up, looked me  
22 square in my face and pointed a gun at me, that's  
23 why I shot him.

24                   MS. BRANCH:   All right. I'm going to  
25 take a break.

1 (Pause in proceedings.)

2 BY MS. BRANCH:

3 Q. Who was the first one to shoot at  
4 Dontae Martin between you and Officer Teague?

5 A. I have no idea.

6 Q. Did you perceive Officer Teague  
7 shooting his weapon at any point?

8 A. Yes. I knew he was shooting.

9 Q. And when was that?

10 A. During the shooting. I can't tell  
11 you for sure when.

12 Q. During your shooting you noticed him  
13 shooting?

14 A. That's correct.

15 (Thereupon, Plaintiff's Exhibit 61,  
16 Joshua Haas' oath of office, was marked for  
17 purposes of identification.)

18 BY MS. BRANCH:

19 Q. Okay. 61 is your oath of office with  
20 Sheriff Plummer; is that right?

21 A. Yes, ma'am.

22 (Thereupon, Plaintiff's Exhibit 62,  
23 Joshua Haas' position description, was marked for  
24 purposes of identification.)

25 BY MS. BRANCH:

1 Q. And then 62 is your job description  
2 once you became a deputy sheriff; is that right?

3 A. Yes. Wait a minute. Yes.

4 Q. That's the one you signed an oath  
5 for?

6 A. Yes.

7 Q. Exhibit 62, one of your duties in  
8 order of importance -- do you see that column in  
9 your job description?

10 A. Yes, job duties in order of  
11 importance.

12 Q. And the first most important duty is  
13 to preserve the peace and enforce the laws of this  
14 state; is that right?

15 A. That's part of it, yes.

16 Q. And the next one in order is protect  
17 the life and property of citizens as a sworn  
18 officer of the County, including patrolling, and  
19 then it goes on. Is that right?

20 A. Yes.

21 Q. And then in your oath of office,  
22 which is Exhibit 61, you sign a new oath every  
23 time there's a new sheriff; is that right?

24 A. That's correct.

25 Q. And this is the one for Sheriff

1 Plummer?

2 A. Yes.

3 Q. You signed this July 11th, 2008?

4 A. That's correct.

5 Q. Are you actually like asked to stand  
6 up, put up your right hand and say these words out  
7 loud, or do you just sign a piece of paper?

8 A. I don't recall. I know the initial  
9 one that I did under Dave Vore I had to raise my  
10 hand, but I can't say for sure on Plummer's.

11 Q. Is there a ceremony or a formal event  
12 that occurs when you take an oath of office as a  
13 sheriff's deputy here?

14 A. No, ma'am.

15 MS. DINEHART: Objection.

16 BY MS. BRANCH:

17 Q. Is it merely for Sheriff Plummer when  
18 he became sheriff you just had to sign this piece  
19 of paper?

20 MS. DINEHART: Objection.

21 THE WITNESS: I have no idea.

22 BY MS. BRANCH:

23 Q. You don't recall?

24 A. No, I just know my sergeant at the  
25 time had me sign it.



1 Q. I see. It's not like the sheriff has  
2 you sign it?

3 A. My sergeant had me sign it so...

4 Q. And who was your sergeant?

5 A. Renee -- or Sergeant Jo Renee O'Ryan  
6 at this time, 2008.

7 Q. And your oath states I do solemnly  
8 swear that I will support the Constitution of the  
9 United States and the Constitution of the State of  
10 Ohio, and that I will faithfully discharge the  
11 duties of deputy sheriff of Montgomery County,  
12 Ohio during my continuance in office; is that  
13 right?

14 A. That's right, that's what it says.

15 Q. The laws of the State of Ohio allow  
16 for open carry of a gun; is that right?

17 A. That's correct.

18 Q. It also allows for concealed carry of  
19 a gun; is that right?

20 A. Yes. Correct.

21 Q. Including in a car?

22 A. Yes.

23 Q. A person may -- in Ohio it's legal to  
24 have a gun concealed in a vehicle?

25 A. With the carry -- concealed weapons

1 permit.

2 Q. Did you do anything to determine  
3 whether Dontae Martin had a concealed carry  
4 permit?

5 A. No.

6 Q. Did you do anything when you saw the  
7 gun in the vehicle at first to determine whether  
8 he was permitted to have an open carry gun?

9 A. No.

10 Q. Did it occur to you that he may be  
11 permitted to have that gun that you saw?

12 A. No.

13 Q. Did you -- when you saw the gun  
14 inside the car, did you perceive it as a threat?

15 A. Absolutely.

16 Q. Even though it could have been legal  
17 to have the gun?

18 A. Absolutely.

19 Q. And why is that?

20 A. Because he was holding the firearm.

21 Q. Now, Deputy Teague said that he was  
22 not holding the firearm. Do you dispute that?

23 MS. DINEHART: Objection.

24 THE WITNESS: I don't know what he  
25 saw from his vantage point. I know from my

1 vantage point he was holding the firearm in his  
2 right hand.

3 BY MS. BRANCH:

4 Q. Well, from your vantage point. You  
5 said it appeared, from your vantage point, that he  
6 was holding a gun; is that right?

7 A. There it is.

8 Q. Paragraph five of Exhibit 58?

9 A. That's correct. From my vantage  
10 point he appeared to be holding a firearm -- large  
11 semiautomatic handgun in his right hand.

12 Q. So having a gun in his vehicle on  
13 his -- in his car on his person with his hand on  
14 the gun, that was a threat to you?

15 A. Yes.

16 Q. Was that a sufficient threat under  
17 the County's use of force policy to be able to use  
18 deadly force?

19 A. Can I see the policy?

20 Q. Sure. It's Exhibit 2, and the deadly  
21 force section starts on Section B as in boy.

22 (Thereupon, Plaintiff's Exhibit 2,  
23 use of force policy, was previously marked for  
24 purposes of identification.)

25 BY MS. BRANCH:

1 Q. You're welcome to read whatever you  
2 need, just let me know when you're done.

3 A. Okay.

4 Q. Okay.

5 A. What was your question?

6 (Record read.)

7 THE WITNESS: My opinion, it falls  
8 under imminent danger, an appearance of threatened  
9 and impending injury as would put a reasonable and  
10 prudent person to his instant defense so...

11 BY MS. BRANCH:

12 Q. That's a yes?

13 A. In a prudent person, yes, with the  
14 totality of circumstances.

15 Q. So that would be enough for you to  
16 use deadly force?

17 A. That would be part of enough to use  
18 deadly force, correct; but obviously you've got to  
19 take the whole circumstances. If you're asking me  
20 would I have shot Dontae Martin that night for  
21 holding a gun on his lap, no. I shot Dontae  
22 Martin when he sat up, pointed the gun at me, and  
23 then I shot him.

24 Q. In the use of force policy, the  
25 section above deadly force, do you see the section

1 at the top of the page, number six?

2 A. Yes.

3 Q. Did you read that while you took the  
4 time to read the deadly force paragraph?

5 A. No, I read the deadly force  
6 paragraph.

7 Q. Number six, seven lines down from the  
8 top of the paragraph it says if a safe alternative  
9 to the use of deadly force is likely to achieve  
10 the purpose of averting an imminent danger, deadly  
11 force is not necessary. Did I read that  
12 correctly?

13 A. That's correct.

14 Q. And is that a policy that you  
15 followed at the Montgomery County Sheriff's  
16 Office?

17 A. Based on what? Based on what  
18 happened that night?

19 Q. No. I'm just asking is that a policy  
20 that you followed while you were a sheriff's  
21 deputy?

22 MS. DINEHART: Objection.

23 THE WITNESS: Yeah, I follow all  
24 policies, to the best of my knowledge.

25 BY MS. BRANCH:

1 Q. Okay.

2 A. But if you're asking me about that  
3 night --

4 Q. You would agree that you -- the  
5 policy of the office and the training that you've  
6 received is that if there's a safe alternative to  
7 using deadly force, deadly force would not be  
8 necessary --

9 MS. DINEHART: Objection.

10 BY MS. BRANCH:

11 Q. -- is that correct?

12 A. Based on the situation, correct.

13 Q. Right. And if there is a safe  
14 alternative that would overt any danger, then  
15 deadly force would be excessive force; is that  
16 your understanding of the policy and your  
17 training?

18 MS. DINEHART: Objection.

19 THE WITNESS: Based on the  
20 individual -- I mean, we can subject the policy to  
21 whatever; but unless you're applying a situation  
22 that we can use or reference, I mean, I can't  
23 answer that. I mean, if you're talking about the  
24 night in question, no, that does not fit. There  
25 was no safe alternative.

1 BY MS. BRANCH:

2 Q. Well, my question was, was it -- is  
3 it the policy that you followed, is it the  
4 training that you had at Montgomery County that if  
5 there's a safe alternative to deadly force that  
6 ends the threat, deadly force is not permitted?

7 MS. DINEHART: Objection.

8 THE WITNESS: When it's safe to do so  
9 and you have alternative means.

10 BY MS. BRANCH:

11 Q. Then yes?

12 A. But there's obviously situations  
13 where the policy does not apply.

14 Q. Have you ever been in a situation  
15 where the policy did apply and you found a safe  
16 alternative without having to --

17 A. Yes.

18 Q. -- use deadly force? Tell me about  
19 that.

20 A. When people won't comply with  
21 commands.

22 Q. Can you give me an example?

23 A. Yeah, I got in a foot chase with a  
24 shooting suspect, he pulled a gun on me, listened  
25 to my commands, and he dropped it. He went home

1 that night. Well, he went to jail. I've had  
2 people barricaded in a house who eventually come  
3 out. Policy would apply there. But every single  
4 situation is different.

5 Q. Have you ever used cover to avoid  
6 using deadly force?

7 A. No.

8 Q. Do you know your policy allows you to  
9 use cover, Section -- the second bullet point  
10 under Section 6?

11 A. Yeah, it says --

12 Q. Cover provides a tactical advantage  
13 that works both ways. An armed subject attempting  
14 to gain a position of cover may necessitate the  
15 use of deadly force; conversely, employees in a  
16 position of cover may gain additional time to  
17 assess the need to use deadly force without  
18 exposure to additional risks. Do you agree with  
19 that policy?

20 MS. DINEHART: Objection.

21 THE WITNESS: Yes, but it doesn't  
22 apply to the situation on July 23rd.

23 BY MS. BRANCH:

24 Q. Have you been in a situation where  
25 you have felt justified in using deadly force but



1 you waited and held off to see if another  
2 alternative would be able to eliminate the threat  
3 so you could avoid using deadly force?

4 A. No.

5 Q. Did you ever give a warning -- a  
6 verbal warning to Dontae Martin that if he failed  
7 to comply with your commands, you would shoot?

8 A. No.

9 Q. Are you trained to do that in  
10 Montgomery County?

11 A. No.

12 Q. If you look at the next page of the  
13 policy, the bottom it's page 1602.

14 A. Yes.

15 Q. And at the top of the page you see a  
16 number three?

17 A. Yes.

18 Q. That policy says if feasible, and if  
19 to do so would not increase the danger to  
20 employees or others, a verbal warning to submit to  
21 the employee's authority should be given before  
22 the use of deadly force. Did I read that  
23 correctly?

24 A. Yes.

25 Q. Is that the policy?

1 A. That's what the policy says.

2 Q. Did you ever practice that?

3 A. Not to my knowledge. I don't ever  
4 recall threatening to shoot somebody.

5 Q. Did you ever in your career at  
6 Montgomery County before you shot your weapon, to  
7 Dontae Martin --

8 A. Yes.

9 Q. -- Mr. Davis, Mr. Wright, say if you  
10 don't comply, I'll shoot?

11 A. No.

12 Q. Did you comply with this policy in  
13 other situations where deadly force was being  
14 considered but you didn't actually have to shoot  
15 your weapon?

16 A. When you say deadly force, no. Have  
17 I ever been in a deadly force situation where I  
18 haven't shot my weapon? No. Have I pointed my  
19 firearm at people? Yes.

20 Q. In situations where you've pointed  
21 your firearm at people, have you warned them stop  
22 whatever it is they're doing or I'll shoot?

23 A. No.

24 Q. Have you ever been trained to give a  
25 warning at Montgomery County?

1 A. The warning stop or I'll shoot?

2 Q. Yes.

3 A. No.

4 Q. What warnings have you been trained  
5 to give?

6 A. Drop the gun, show me your hands, the  
7 normal basic commands. I've never been trained  
8 drop the gun or I'll shoot.

9 (Thereupon, Plaintiff's Exhibit 63,  
10 use of force report on James Wright, was marked  
11 for purposes of identification.)

12 BY MS. BRANCH:

13 Q. Exhibit 63. Have you seen -- if you  
14 could take a minute to look at Exhibit 63. The  
15 first page is a use of force report involving the  
16 shooting of Mr. Wright, your incident report  
17 involving the shooting of Mr. Wright, and the  
18 information sheet for the internal on the shooting  
19 of Mr. Wright. Just take a few minutes to look at  
20 those and let me know when you're done.

21 A. Okay.

22 Q. Do you recall this incident?

23 A. Yes, ma'am, very well.

24 Q. This was the shooting that occurred  
25 in December '14 prior to the shooting of Dontae

1 Martin in July of '15; is that right?

2 A. That's correct.

3 Q. The incident occurred on December 27,  
4 2014?

5 A. Yes.

6 Q. And you signed your use of force  
7 report on December 31, 2014; is that right?

8 A. Yes.

9 Q. And page one, is that the typical use  
10 of force report form that existed back in 2015?

11 A. Yes.

12 Q. And I will just say for the record I  
13 haven't seen a use of force report regarding  
14 Dontae Martin, but do you recall, now that you've  
15 seen the form for Mr. Wright, whether you filled  
16 one out?

17 A. I don't remember filling one out for  
18 Mr. Martin.

19 Q. Your use of force was investigated by  
20 internal?

21 A. Yes.

22 Q. And you were found to have been in  
23 compliance with the use of force policy; is that  
24 right?

25 A. That's correct.

1 Q. And specifically the use of deadly  
2 force because you shot him, right?

3 A. It doesn't say what I was  
4 investigated for on here.

5 Q. Did you use deadly force on  
6 Mr. Wright?

7 A. Yes.

8 Q. He lived, though, right?

9 A. Correct.

10 Q. And the sheriff's department found  
11 that your conduct was proper?

12 A. For the investigation, yes.

13 Q. And you said there was a civil case  
14 brought after that?

15 A. Not with Mr. Wright.

16 Q. Oh, that was Mr. Davis?

17 A. Davis.

18 Q. Okay. In the situation involving  
19 Mr. Wright, did you feel threatened?

20 A. Absolutely.

21 Q. Tell me about Mr. Wright in that  
22 situation.

23 A. He already brandished a firearm. He  
24 had aggressive demeanor. He stared right at me  
25 and he refused numerous, numerous verbal commands

1 to drop his gun.

2 Q. Was there a threat to others?

3 A. Yes.

4 Q. And to who?

5 A. Patrons at the gas station, the  
6 clerk, employees, other deputies when they arrived  
7 on the scene.

8 Q. Tell me about the situation and what  
9 occurred there.

10 A. I showed up to get gas. The subject  
11 was seated on a trash can, saw me, jumped up, had  
12 a pistol in his hand, took an aggressive erect  
13 posture, stared right at me.

14 Q. What did you do?

15 A. I notified dispatch, exited my patrol  
16 vehicle and deployed my shotgun --  
17 department-issued shotgun and began commands to  
18 drop the gun.

19 Q. You notified dispatch that you had a  
20 suspect with a gun?

21 A. Suspicious person, yes, with a gun.

22 Q. And why did you get your shotgun  
23 instead of your firearm?

24 A. Because of the distance, I was more  
25 comfortable. I wasn't comfortable taking a

1 pistol.

2 Q. And what happened after you told  
3 dispatch that he had a gun?

4 A. I continued to give him commands. I  
5 renotified dispatch that he is challenging me and  
6 refusing to drop the gun.

7 Q. Did you shoot him?

8 A. Not at that time.

9 Q. Why not?

10 A. Because he didn't point the gun at  
11 me, any civilians, employees at that time.

12 Q. And then what happened?

13 A. Deputy Teague arrived on scene.  
14 Sergeant McLaughlin arrived on scene. I think  
15 over two hundred commands were given, drop the  
16 gun, we don't want to shoot you. He failed to  
17 comply. Huber Heights Police Department showed  
18 up, deployed less lethal in the form of beanbag  
19 rounds, shot Mr. Wright twice. Prior to the third  
20 round being deployed he pointed the handgun at  
21 Sergeant McLaughlin. At that time I discharged my  
22 shotgun and shot him simultaneously with the third  
23 beanbag round.

24 Q. Who was giving the two hundred  
25 commands to drop the gun?

1           A.     Myself, Deputy Teague, and Sergeant  
2 McLaughlin. It's just an estimate. I heard it  
3 was anywhere between two hundred and four hundred  
4 times.

5           Q.     From the beginning of your calling  
6 dispatch until the end of the shooting -- or to  
7 the moment you shot him, would you agree that was  
8 several minutes?

9           A.     Yes. I think it was like an almost  
10 seven-minute standoff.

11          Q.     And it -- when you called dispatch,  
12 where were you? I'm sorry, the first time you  
13 called dispatch to say he had a gun, where had you  
14 positioned yourself?

15          A.     I was already pulling up to the gas  
16 pump to get gas and once I stopped is when I saw  
17 him. So between I think pump four and -- yeah.

18          Q.     Were you in your vehicle when you  
19 called dispatch?

20          A.     Yes.

21          Q.     When you got out of your vehicle, did  
22 you take cover?

23          A.     No. Yeah, behind my driver's side  
24 door. I stayed behind my driver's side door. I  
25 never went around or anything but later on ended



1 up taking cover behind a fuel pump.

2 Q. You took cover behind a fuel pump?

3 A. Yes, ma'am. That's the only cover I  
4 had.

5 Q. All right. Was there anybody else on  
6 scene at that point?

7 A. Deputy Teague, Sergeant McLaughlin,  
8 Officer Waller from Huber Heights, and then a  
9 plethora of cops afterwards I found out.

10 Q. Okay. And when you were taking cover  
11 either behind your door or at the fuel pump, was  
12 anyone else taking cover?

13 A. Deputy Teague behind his cruiser,  
14 Sergeant McLaughlin behind his cruiser, and then  
15 Sergeant McLaughlin left his cruiser and advanced  
16 to a parked Volkswagen bug to take cover.

17 Q. All right. And were there civilians  
18 around?

19 A. At that time they went in the gas  
20 station. An RTA bus driver was standing right  
21 there for two and a half minutes until they  
22 contacted RTA bus and told him to leave. So he  
23 was standing right there outside his bus videoing  
24 everything.

25 Q. And did you ever watch that video?

1 A. Yes, I did.

2 Q. Did he take cover?

3 A. The bus driver?

4 Q. Yes.

5 A. No, he stood right there until  
6 dispatch got ahold of RTA and told him to leave.

7 Q. Were you ordering him to take cover  
8 and get out of the way?

9 A. I was not.

10 Q. Was somebody else?

11 A. Somebody else was yelling for him to  
12 get out of here.

13 Q. And he just stood there?

14 A. Yes, videoing.

15 Q. Anyone else in danger other than the  
16 bus driver at that point?

17 A. Like I said, the employees inside,  
18 the employees outside, and all the officers in the  
19 parking lot.

20 Q. And you said that the less than  
21 lethal was deployed, so for the record that's the  
22 beanbag gun?

23 A. Beanbag shotgun, correct.

24 Q. How does that work?

25 A. It's a normal shotgun. It looks like

1 a normal shotgun round. You operate it the same  
2 way as a normal shotgun.

3 Q. And that was a Huber Heights officer?

4 A. Yes.

5 Q. And did you give him the command to  
6 shoot his beanbag gun?

7 A. Sort of. He was asking for  
8 permission from Sergeant McLaughlin. Sergeant  
9 McLaughlin was not responding, and I believe my  
10 exact words is just fucking shoot him with the  
11 beanbag gun.

12 Q. Why was Sergeant McLaughlin not  
13 responding?

14 MS. DINEHART: Objection.

15 THE WITNESS: I can't answer that.

16 BY MS. BRANCH:

17 Q. Did you ever ask him?

18 A. No.

19 Q. Did he freeze?

20 MS. DINEHART: Objection.

21 THE WITNESS: I have no idea.

22 BY MS. BRANCH:

23 Q. Was he the officer in charge?

24 A. He was my sergeant, yes.

25 Q. He was your supervisor?

1 A. Yes.

2 Q. Teague's supervisor?

3 A. Yes, the deputies. All the deputies.

4 Q. Was there any other Montgomery County  
5 sheriff's person higher than McLaughlin?

6 MS. DINEHART: Objection.

7 THE WITNESS: After the shooting?

8 BY MS. BRANCH:

9 Q. No, before the shooting.

10 A. No, ma'am.

11 Q. And Huber Heights, how does that work  
12 when another agency is working with you on the  
13 scene, does your command person command the other  
14 agency?

15 A. No clue.

16 Q. And why did you say go ahead and  
17 shoot him?

18 A. At that time he was starting to walk  
19 away and heading toward Main Street. He would  
20 have been out of our containment. Less lethal was  
21 available. At that time it was the only option  
22 that I thought we had available.

23 Q. And at the time that the less than  
24 lethal -- you told the Huber Heights --

25 A. Absolutely.

1 Q. -- officer to use his beanbag gun,  
2 did Mr. Wright have his gun drawn?

3 A. No.

4 Q. Where was his gun?

5 A. Still down to his side.

6 Q. And what happened after the beanbag,  
7 the first deployment of it?

8 A. No effect on him. The second one  
9 kind of spun him. As he was spinning, he raised  
10 the gun and pointed it at Shamus McLaughlin,  
11 Sergeant McLaughlin, and I feared his life and  
12 that's when I deployed my shotgun and shot  
13 Mr. Wright.

14 Q. So the threat that you perceived was  
15 the threat to Sergeant McLaughlin?

16 A. Yes, ma'am.

17 Q. And how many times did you shoot the  
18 shotgun?

19 A. Once.

20 Q. Is it capable of being shot again  
21 without having to reload?

22 A. Correct. Yes.

23 Q. And how many shots could you have  
24 gotten off from your shotgun?

25 A. Five. Five, I believe.

1 Q. Why did you just shoot once?

2 A. He crumbled and the gun was no longer  
3 in his hand so I felt at that time a second shot  
4 was not necessary.

5 Q. You said in your statement, this is  
6 the third page of Exhibit 63, your narrative, at  
7 the top of the page, at one point Wright lifted  
8 the gun by rotating his wrist and pointed at me.  
9 Do you see that?

10 A. Yes, ma'am.

11 Q. Did you shoot him at that point?

12 A. No, I did not.

13 Q. Why not?

14 A. Because I was afraid of making a  
15 mistake, and then after the shooting I went to  
16 Deputy McLaughlin and Teague and asked them if  
17 they saw what I saw because I didn't want to make  
18 a mistake.

19 Q. What do you mean a mistake?

20 A. Because at that time I believed he  
21 was pointing the gun at me. I wasn't one hundred  
22 percent sure. I wasn't willing to make that  
23 mistake. So after the shooting I went to them and  
24 verified what I saw, and they said yes, that's  
25 what he was doing.

1 Q. And what did you think at that point?

2 A. I didn't really think of nothing.

3 That basically it confirmed what I saw but I  
4 wasn't one hundred percent sure and I wasn't  
5 willing to make that mistake.

6 Q. Did that affect you, that you didn't  
7 trust what you saw?

8 A. No.

9 MS. DINEHART: Objection.

10 BY MS. BRANCH:

11 Q. Did Officer Teague or Sergeant  
12 McLaughlin tell you that you could have taken the  
13 shot at that point?

14 A. No.

15 Q. Or that you should have?

16 A. No.

17 Q. Were you criticized by any of your  
18 fellow officers for not having shot Mr. Wright  
19 sooner?

20 A. No.

21 Q. Were there any commands given to  
22 Mr. -- or warnings given to Mr. Wright that if he  
23 didn't drop his gun, he was going to be shot?

24 A. No. I think it was basically  
25 pleading with him, we don't want to shoot you. I

1 don't recall anybody saying if you don't drop it,  
2 we're going to shoot because that's not what we  
3 say.

4 Q. And why -- were you one of the people  
5 pleading with him?

6 A. Yes.

7 Q. What were you saying?

8 A. I don't want to shoot you. And I  
9 also keyed my radio so it got put over a taped  
10 line on dispatch so it's purposely recorded me  
11 saying over and over again drop the gun, I don't  
12 want to shoot you.

13 Q. Why did you do that?

14 A. Just I felt it was necessary.

15 Q. How did you key your radio?

16 A. Just pressed it and held it and it's  
17 on a tape-recording just to show the numerous  
18 commands that we gave this gentleman and that we  
19 did not want to shoot him.

20 Q. So you tried for seven minutes to get  
21 him to drop his gun before you felt you had no  
22 choice but to shoot him?

23 A. Roughly seven minutes. I don't know  
24 the exact time but --

25 Q. About?



1           A.    -- it's about seven minutes.  Yes,  
2   ma'am.

3           Q.    And you shot him once, not multiple  
4   times?

5           A.    Yes, ma'am.

6           Q.    And one shot was enough to end the  
7   threat?

8           A.    Yes, ma'am.

9           Q.    You were able to use lethal force  
10   without actually killing him, right?

11          A.    It worked out that way.  I mean,  
12   that's up to God and doctors.

13          Q.    So in that situation, if we compare  
14   it to your response to Dontae Martin, you waited  
15   for backup to arrive before approaching the  
16   suspect?

17          A.    That's incorrect.  I never approached  
18   the suspect.

19          Q.    You waited for backup before you shot  
20   him?

21          A.    No.  I didn't wait for backup.  
22   Backup came.  I didn't wait for backup for nothing  
23   in this situation.

24          Q.    You took cover before you shot him?

25          A.    Yes.

1 Q. You and others gave commands for  
2 around seven minutes --

3 A. Yes.

4 Q. -- before you felt the need to shoot  
5 him?

6 A. Yes.

7 Q. You and the Huber Heights officer  
8 considered and did use nonlethal force first  
9 before shooting, right?

10 A. That's correct.

11 Q. It was your command and the officer  
12 followed it?

13 A. Yes.

14 Q. Twice?

15 A. Three times.

16 Q. Three times. You recorded your  
17 warnings? You had the presence of mind to record  
18 your warnings by keying your mic, right?

19 A. Yes, ma'am.

20 Q. You did not do that with Dontae  
21 Martin, correct?

22 A. No, because I had a seven-minute  
23 standoff to do that. This lasted, according to  
24 you, fourteen seconds.

25 Q. You used or attempted to use an

1 alternative, less than lethal force, to stop the  
2 threat so that you wouldn't have to use lethal  
3 force, right?

4 A. For the Speedway, Mr. Wright?

5 Q. For Mr. Wright.

6 A. Absolutely, yes.

7 Q. You followed that policy that we  
8 looked at earlier in Exhibit 2, Section 6?

9 A. No, I didn't follow it.

10 MS. DINEHART: Objection.

11 THE WITNESS: I didn't follow the  
12 policy. It was an option available on the scene  
13 and I chose to use that option. We didn't have  
14 that option. So I did not follow that policy.

15 BY MS. BRANCH:

16 Q. Well, you're permitted under the  
17 policies to use a safe alternative to end a  
18 threat?

19 MS. DINEHART: Objection.

20 THE WITNESS: Correct. If you have  
21 that means. We don't have that means.

22 BY MS. BRANCH:

23 Q. And you had that -- you had the  
24 ability in the Wright situation because Huber  
25 Heights had the shot -- the beanbag gun?

1 A. Yes.

2 Q. In the Dontae Martin situation you  
3 had the ability to take cover, you had the ability  
4 to wait for backup, you had the ability to give  
5 commands for more than a few seconds, would you  
6 agree?

7 A. No.

8 MS. DINEHART: Objection.

9 THE WITNESS: No, I would not agree.

10 BY MS. BRANCH:

11 Q. How did you react to shooting  
12 Mr. Wright?

13 A. I opened the rear of my cruiser,  
14 threw the shotgun on the floorboard and took off  
15 toward Main Street cussing.

16 Q. And what were you cussing?

17 A. I'm sure F bombs. I'm sure -- you  
18 name it because I just stood on a seven minute  
19 standoff begging for somebody to drop the gun and  
20 he failed and I had to shoot him.

21 Q. And how did that make you feel?

22 A. At the time? I was pissed, I'm not  
23 going to lie. He had every opportunity.

24 Q. And how did that affect you when you  
25 came back to work?

1           A.     It didn't affect me at all. I had no  
2 problem being at work. Like I stated earlier, my  
3 problem was home.

4           Q.     In the situation involving Mr. Wright  
5 did you testify to a grand jury?

6           A.     Yes, ma'am.

7           Q.     And did the grand jury come back with  
8 a no bill?

9           A.     That's correct.

10          Q.     And when they were done, did internal  
11 pick up their investigation?

12          A.     Yes, ma'am.

13          Q.     Did anybody from internal talk to  
14 you?

15                   MS. DINEHART: Objection.

16                   THE WITNESS: I think I already  
17 answered that. Without contradicting myself, I  
18 don't think I spoke to anybody.

19 BY MS. BRANCH:

20          Q.     Do you know how much time elapsed  
21 between the moment -- I'm sorry, back to the  
22 Dontae Martin shooting.

23                   Do you know how much time elapsed  
24 from the time you exited your vehicle until you  
25 shoot at Dontae Martin the first time?

1 A. No, ma'am.

2 Q. At the time that you perceived  
3 Mr. Martin to have a gun, were you able to key  
4 your radio mic by touching the mic on your  
5 uniform?

6 A. Was I capable?

7 Q. Uh-huh.

8 A. Yes.

9 Q. Was there any other way that you  
10 could have talked to dispatch other than touching  
11 your microphone on your uniform?

12 A. I could have keyed it on the actual  
13 radio itself, but that's the only way.

14 Q. And were you wearing a microphone  
15 that was connected to the video recorder in your  
16 car?

17 A. Yes.

18 Q. Where was that microphone?

19 A. Right shirt pocket.

20 Q. On Exhibit 20 can we see it? Exhibit  
21 20 is in the book.

22 A. That's Teague. That's 19. I'm  
23 sorry. That's me. Yeah, you can't see it, but I  
24 have a shirt pocket under my name, the badge is  
25 embroidered over the pocket so you can't actually

1 see it.

2 Q. I see.

3 A. But I have a right shirt pocket.

4 Q. And how would you have turned that  
5 on?

6 A. There's a red button on top and you  
7 can just press it right through the material.

8 Q. Is that something you're used to  
9 doing, touching that button --

10 A. Yes.

11 Q. -- through your closed-up shirt  
12 pocket?

13 A. Yes.

14 Q. Did you do that at any point during  
15 the encounter with Mr. Martin?

16 A. No.

17 Q. Why not?

18 A. I didn't have time and I didn't think  
19 about it.

20 Q. How about after the shooting, did you  
21 turn it on?

22 A. No.

23 Q. Did you consider turning it on?

24 A. No.

25 Q. At any point did you consider whether

1 Dontae Martin had committed a crime?

2 A. No. I was there to investigate a  
3 crash.

4 Q. How about after the shooting, if he  
5 had survived, did he do anything that was criminal  
6 conduct while you were on the scene?

7 A. Yeah, he pointed a gun at law  
8 enforcement which is a felony.

9 Q. If he had survived, what crime would  
10 you have charged him with?

11 A. Felonious assault.

12 MS. DINEHART: Objection.

13 BY MS. BRANCH:

14 Q. Did you have a cell phone with you  
15 while you were on duty on July 23rd, 2015?

16 A. Yes, ma'am.

17 Q. Was that -- how many cell phones did  
18 you have with you?

19 A. One.

20 Q. Personal or department?

21 A. Personal.

22 Q. And do you know the number from  
23 that -- I don't want you to tell me, but do you  
24 know the number from that cell phone?

25 A. Yes.



1 Q. And do you still use that phone?

2 A. Not the phone.

3 Q. Do you still use that number?

4 A. Yes.

5 Q. And do you know who the carrier was  
6 you had back in 2015?

7 A. Yes.

8 Q. And who was your carrier?

9 A. Verizon.

10 Q. Have you gone through your phone  
11 records to see if you used your phone on July 23rd  
12 through July 25th, 2015?

13 A. Through Verizon or through my phone  
14 itself?

15 Q. Either -- both.

16 A. I don't have that phone, it's in the  
17 bottom of the Great Miami River, and I haven't  
18 contacted Verizon to look for it.

19 Q. Did you ask -- at any point during  
20 the litigation did you try to find if Verizon had  
21 any records of use of the cell phone on those  
22 dates?

23 A. No, ma'am.

24 Q. Did you have text messaging? Did you  
25 have text on your phone?

1 A. Yes.

2 Q. Have you asked Verizon to provide any  
3 of those?

4 A. No, ma'am.

5 Q. During the incident did you use your  
6 cell phone at all?

7 A. No.

8 Q. How about after the shooting while  
9 you were still on the scene before you left to go  
10 back to the station?

11 A. No. My phone was in my cruiser. I  
12 don't carry it on my person.

13 Q. Did you go to your cruiser to get the  
14 phone while you were waiting?

15 A. I did not. Somebody retrieved it for  
16 me.

17 Q. Okay. And how did you use your phone  
18 that night -- that early morning?

19 A. I'm sure I used it for personal  
20 reasons, but at the time of the shooting I didn't  
21 use it at all.

22 Q. Yeah. So you are on scene for a  
23 couple hours --

24 A. Uh-huh.

25 Q. -- before you were -- went to the

1 Harrison substation?

2 A. Yes, ma'am.

3 Q. And while you were on scene who did  
4 you call?

5 A. I didn't call nobody.

6 Q. Text?

7 A. No.

8 Q. Message?

9 A. No.

10 Q. Used your phone in any way?

11 A. No.

12 Q. Anybody call you?

13 A. No.

14 Q. Why did you have your phone  
15 retrieved?

16 A. Because the cruiser -- I think I got  
17 my phone and my patrol rifle because it's part of  
18 the crime scene, I knew it was going to be there  
19 forever and I wasn't going to be there so I got  
20 my -- I think I actually got my duty bag, my  
21 rifle, and my phone -- my personal effects out of  
22 the cruiser because they were going to be tied up.

23 Q. I see. So you got your stuff so --

24 A. Yes.

25 Q. -- you could take it home with you?

1 A. Yes.

2 Q. Who did you talk to while you were at  
3 the scene about what happened?

4 A. About what happened?

5 Q. Yes.

6 A. Isaiah Kellar would be the only one.

7 Q. Did you talk to your wife?

8 A. No, I told her to get away from me  
9 and do her job.

10 Q. What was her job at that point?

11 A. As a deputy sheriff.

12 Q. What were her duties at the scene?

13 A. Whatever the sergeant or the command  
14 staff had her do.

15 Q. Do you know what they were?

16 A. No, ma'am.

17 Q. Did you see what she did?

18 A. I saw her doing CPR on Mr. Martin,  
19 but after that, no.

20 Q. Do you know -- sitting here today,  
21 years later, do you know why she was on scene for  
22 several hours?

23 A. Because she was working as a deputy  
24 in Harrison Township is the only reason why I  
25 could assume. Everybody was on scene.

1 Q. Were there people on scene who had  
2 nothing else to do and -- no other assignments or  
3 dispatches to go to?

4 A. I have no idea. They dropped the 99  
5 so any cop within Montgomery County came to that  
6 scene. So to say who had what, I have no clue.

7 Q. And when did you talk to your wife  
8 about the events, what happened with the shooting?

9 MS. DINEHART: Objection. She's not  
10 asking you what you said. She's asking you when.

11 THE WITNESS: I would assume we  
12 discussed it within our marriage.

13 BY MS. BRANCH:

14 Q. That day?

15 A. No. I didn't talk to nobody that  
16 day. I isolated myself.

17 Q. Where did you go?

18 A. Home. Then we went out to dinner  
19 that night but nothing was discussed.

20 Q. When was the first time you talked to  
21 her?

22 A. I don't remember.

23 Q. How many times did you talk to her?

24 A. I don't know. I couldn't say.

25 Q. Okay. Sitting here today, does any

1 of the conversations with your wife about what  
2 happened come to mind?

3 A. No.

4 Q. When you talked to your wife about  
5 the incident, who else was present?

6 A. Me and my wife.

7 Q. In any of the conversations you had  
8 with her was anyone else present?

9 A. No.

10 Q. If you don't remember the  
11 conversations, how do you know?

12 A. Because I wouldn't discuss it in  
13 front of my children and nobody else lived in my  
14 house.

15 Q. What about when you went out to  
16 dinner?

17 A. We wouldn't have discussed that.  
18 That's not appropriate dinner conversation.

19 Q. Have you ever been disciplined in any  
20 of your positions at Montgomery County?

21 A. Yes.

22 Q. And what type of incidents did you  
23 get disciplined for?

24 A. Violation of pursuit policy and an  
25 evidence violation.

1 Q. What was the pursuit?

2 A. A car that we weren't supposed to be  
3 chasing but some of the deputies were chasing it,  
4 and we all got I think letters of caution or  
5 reprimands.

6 Q. Were you doing a high pursuit --

7 A. No.

8 Q. -- I mean a high speed chase?

9 A. No.

10 Q. Why shouldn't you be pursuing?

11 A. It didn't meet our pursuit policy --

12 Q. Anybody get hurt?

13 A. -- according to command staff. No.

14 Q. And what was the other one?

15 A. Violation of evidence.

16 Q. And what happened there?

17 A. I did not put my disk into evidence.  
18 I put it back in its normal place where it's kept.  
19 It was on a crash/assault case where I reviewed my  
20 disk, it didn't show any of the vehicles involved,  
21 it was pointed in a whole different direction, and  
22 I determined it wasn't evidentiary value so I just  
23 stuck it back in the case and they said no, I  
24 should have put it in the property room.

25 Q. And what's the disk?

1           A.     It's the disk that goes into our  
2 camera system, the CD.

3           Q.     The CD, the recording?

4           A.     Yes, ma'am.

5           Q.     Okay. Do you recall the conversation  
6 you had with the sheriff about your  
7 fitness-for-duty return?

8           A.     Which one?

9           Q.     Let me ask it differently. Have you  
10 talked to the sheriff about your fitness -- your  
11 return to fitness for duty after the Dontae Martin  
12 shooting?

13          A.     I think we talked twice maybe.

14          Q.     And --

15          A.     He put us on leave a couple times.

16          Q.     And what did he tell you?

17          A.     I don't remember the exact  
18 conversation other than I'm putting you back on  
19 leave, go home.

20          Q.     Why did he take you off leave and  
21 then put you back on leave?

22          A.     One instance we were concerned. We  
23 were identified as the shooters in the jail  
24 because the sheriff moved us into the courts, and  
25 we brought up that concern to our sergeant and it



1 went up the chain and we got called into Sheriff  
2 Plummer's office and he put us on administrative  
3 leave.

4 Q. What was your concern?

5 A. That we were unarmed and we already  
6 got identified as the shooters who killed Tae and  
7 we didn't feel safe being around hundreds of  
8 inmates unarmed.

9 Q. And what was your assignment?

10 A. The court, which takes -- the  
11 transport staging takes all the inmates in the  
12 jail to different court locations where they're  
13 all housed before they go to courts in one area.  
14 So you're surrounded by a hundred inmates and  
15 that's where we were identified. Not to mention  
16 when we take them to court, we're in a secured  
17 elevator. We didn't feel safe so we brought up  
18 them concerns.

19 Q. And any other conversations with the  
20 sheriff?

21 A. About the incident that happened that  
22 night? Not that I can think of.

23 Q. The incident, your fitness-for-duty,  
24 the lawsuit.

25 A. No. I haven't spoke to the sheriff.

1 Other than the meetings he put us on, I never had  
2 any contact with the sheriff. It was always  
3 through Julie Droessler or Chief Deputy Strek.

4 Q. And what conversation did you have  
5 with Julie Droessler?

6 A. Strictly work related. Not about the  
7 shooting.

8 Q. When you say work related, you mean  
9 return to work?

10 A. Return to work, not return to work,  
11 return to work, not return to work.

12 Q. What about Chief Deputy Strek, what  
13 conversations did you have with him?

14 A. He put me back on administrative  
15 leave while I was at the range. There was a  
16 meeting with Julie Droessler and Chief Deputy  
17 Strek in the office one time. I think I may have  
18 had two conversations with him.

19 Q. And what did he talk to you about?

20 A. I don't remember. The one was we  
21 weren't cleared by Dr. Daum and then we were  
22 cleared. There was a grammatical error and  
23 paperwork wasn't done and we weren't cleared to  
24 come back so we got put back on. I know I called  
25 him on the phone saying that I can't come back to

1 work, this is prior to starting my medical, I'm  
2 not ready to come back, I need help was with  
3 Strek, but it was very limited.

4 Q. Did Chief Deputy Strek or the sheriff  
5 ever ask any questions about what happened?

6 A. No. Absolutely not.

7 Q. How about the county commissioners,  
8 any conversations with them about Dontae Martin,  
9 the shooting, the lawsuit?

10 A. I can't even tell you who the county  
11 commissioners are.

12 MS. BRANCH: I'm going to check my  
13 notes, take a quick break, and we may be done.  
14 We'll see.

15 THE WITNESS: Yes, ma'am.

16 (Pause in proceedings.)

17 MS. BRANCH: I have no further  
18 questions. Thank you.

19 MS. DINEHART: We will read.

20 (Thereupon, the deposition was  
21 concluded at 2:44 p.m.)  
22  
23  
24  
25

1 I, JOSHUA HAAS, do hereby certify that the  
2 foregoing is a true and accurate transcription of  
3 my testimony.

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Dated — — — — —

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25 Job: 181121KSB

1 STATE OF OHIO )

2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE

3 I, Kathy S. Wysong, a Notary  
4 Public within and for the State of Ohio, duly  
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the  
7 above-named JOSHUA HAAS, was by me first duly  
8 sworn to testify the truth, the whole truth and  
9 nothing but the truth.

10 Said testimony was reduced to  
11 writing by me stenographically in the presence  
12 of the witness and thereafter reduced to  
13 typewriting.

14 I FURTHER CERTIFY that I am not a  
15 relative or Attorney of either party, in any  
16 manner interested in the event of this action,  
17 nor am I, or the court reporting firm with which  
18 I am affiliated, under a contract as defined in  
19 Civil Rule 28(D).

20

21

22

23

24

25

1 IN WITNESS WHEREOF, I have hereunto set my  
2 hand and seal of office at Dayton, Ohio, on this  
3 3rd day of December, 2018.



7 Kathy S. Wyong  
8 KATHY S. WYONG, RPR  
9 NOTARY PUBLIC, STATE OF OHIO  
10 My commission expires 12-1-2018  
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